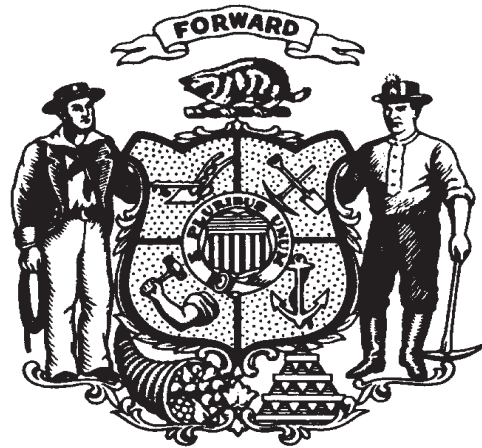


Wisconsin Administrative Register

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WISCONSIN ADMINISTRATIVE REGISTER

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Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

Occasionally the Legislature grants emergency rule authority to an agency with a longer effective period than 150 days or allows an agency to adopt an emergency rule without requiring a finding of emergency.

Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.

Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency or a statement of exemption from a finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Beginning with rules filed with the Legislative Reference Bureau in 2008, the Legislative Reference Bureau will assign a number to each emergency rule filed, for the purpose of internal tracking and reference. The number will be in the following form: EmR0801. The first 2 digits indicate the year of filing and the last 2 digits indicate the chronological order of filing during the year.

Administration

EmR1305 — The Department of Administration hereby adopts an order to repeal Adm 2.14 (2) (vr) c.; to renumber and amend Adm 2.14 (2) (vr) a. and b.; to amend Adm 2.02 (1) (a), 2.04 (1), 2.04 (2), (3), (5), and (7), 2.07 (2), 2.08 (1) and (1) (d), 2.11, 2.14 (2), (2) (v), (2) (vm) and (2) (vm) 5.; and to create Adm 2.03 (3m), (3r), and (6m), 2.04 (1m) and (1r), relating to facility use.

The statement of scope for this rule, SS 028–13, was approved by the Governor on March 15, 2013, and published in Register No. 687 on March 31, 2013. This emergency rule was approved by the Governor on April 11, 2013.

Finding of Emergency

The Legislature has vested management authority over various state buildings and grounds, including those of the Wisconsin State Capitol, in the Department of Administration since 1979. Section 16.84 (1), Wis. Stats. Since 1979 the Department has permitted the use of these buildings and grounds for the free discussion of public questions and other purposes, so long as such uses did not interfere with the prime uses of these facilities, or otherwise infringe on interests of the

state. Section 16.845, Wis. Stats., and s. Adm 2.04, Wis. Adm Code.

Beginning February 2011, groups of persons began to occupy the Wisconsin State Capitol Building without permits. This included appropriating rooms and hallways in the Capitol building for purposes such as camping and storage of bulk supplies. To restore order to the building and return the building to a point where the work of the Wisconsin State Legislature and the Supreme Court of Wisconsin could perform their constitutionally authorized functions without undue disruption, the Department expended funds in excess of \$7,400,000 for law enforcement personnel. The continuous occupation of the State Capitol was formally terminated in March of 2011.

Groups of persons continue to occupy rooms in the Wisconsin State Capitol building without permits, including the Capitol rotunda. These groups constitute an exception to the norm.

The Wisconsin State Capitol Police (WSCP) issue more than 400 permits annually for the use of various state facilities. Permits are used for a variety of purposes, whether political, non-political, charitable or commercial. Permits are issued regardless of political party, affiliation or content.

Occupation of the Capitol rotunda and other areas has caused disruptions to the properly permitted events and normal government activities, including but not limited to, a Red Cross blood drive, a high school science exhibit, school group tours, general public tours, and legislative committee meetings and sessions. The State does not refuse permits for the lawful and safe use of State facilities by any group or groups. Neither can the State allow any group to occupy the Capitol in disregard of the rights of permit holders, public employees or visitors. It is imperative that the Department continue to gain greater compliance from user groups in order to protect the public safety and welfare.

Filed with LRB: April 15, 2013

Publication Date: April 16, 2013

Effective Dates: April 16, 2013 through September 12, 2013

Agriculture, Trade and Consumer Protection (2)

1. EmR1213 (DATCP Docket # 11–R–11) — The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to amend **sections ATCP 55.04 (title), (2) (title), (a) and (b), and (6), 55.07 (1) (a), (2) (a) and (3) (a);** and to create **sections ATCP 55.02 (4m), 55.03 (2) (f), 55.04 (1m), 55.06 (5) (j), 55.07 (1) (c), (2) (d) and (3) (c),** relating to allowing certain selected Wisconsin state-inspected meat establishments to sell meat and meat products in other states and thereby affecting small business.

This rule was approved by the governor on September 6, 2012.

The statement of scope for this rule, SS 005–12, was approved by the governor on January 11, 2012, published in Register No. 673, on January 31, 2012, and approved by the Natural Resources Board on February 22, 2012.

Finding of Emergency

The department of agriculture, trade and consumer protection finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public welfare. Statements of the facts constituting the emergency are:

(1) Wisconsin has more than 270 small state–inspected meat establishments that contribute to the vitality of the state’s rural economy, producing many unique, specialty products. Wisconsin’s state–inspected meat and poultry establishments are inspected by Wisconsin’s Bureau of Meat Safety and Inspection under a cooperative agreement with the United States Department of Agriculture’s (USDA’s) Food Safety and Inspection Service (FSIS) program. Under the cooperative agreement, state meat inspection programs must provide inspection that is “at least equal to” federal inspection under the Federal Meat Inspection Act (FMIA) (21 USC 661) and the Poultry Products Inspection Act (PPIA) (21 USC 454). State–inspected meat and poultry establishments are prohibited from selling their products in other states.

(2) USDA recently established the new Cooperative Interstate Shipment (CIS) program, which will allow state–inspected meat and poultry establishments to sell their products in other states. To qualify for participation in the CIS program, state meat and poultry inspections programs must inspect establishments that volunteer to participate in the program using procedures that are the “same as”, rather than “at least equal to,” USDA’s federal inspections under FMIA and PPIA. This emergency rule incorporates certain federal regulations that Wisconsin’s state meat inspection program must adopt in order to establish a regulatory foundation deemed the “same as” the foundation for the federal program, and thereby allowing Wisconsin to participate in the CIS program.

(3) The department of agriculture, trade and consumer protection (DATCP) is adopting this emergency rule to prevent a potential hardship to Wisconsin’s state–inspected meat establishments selected to participate in the program; adoption of the emergency rule will ensure that these establishments are not prevented from selling their meat and poultry products in other states because the pending “permanent” rules cannot be adopted in time.

Filed with LRB: September 10, 2012
Publication Date: September 13, 2012
Effective Dates: September 13, 2012 through February 9, 2013
Extension Through: June 9, 2013
Hearing Date: October 15, 18, 19, 2012

2. EmR1301 (DATCP Docket # 12–R–10) — The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule to create **s. 161.50 (3) (f) and subch. VI of ch. ATCP 161**, relating to the “grow Wisconsin dairy producer” grant and loan program created under ss. 20.115 (4) (d) and 93.40 (1) (g), Stats.

This rule was approved by the governor on January 14, 2013.

The scope statement for this rule, SS 090–12, was approved by the governor on November 8, 2012, published in Register No. 683, on November 30, 2012, and approved by the Board of Agriculture, Trade and Consumer Protection on December 18, 2012.

Finding of Emergency

Enactment of a rule is necessary to establish criteria the department will use to make determinations for grants, loans or other forms of financial assistance to dairy producers to promote and develop the dairy industry. An emergency rule is needed to ensure that funds are used to assist dairy producers during the second year of the annual appropriation as permanent rules cannot be adopted in time to provide the basis for grant determinations for the second year appropriations.

Filed with LRB: January 31, 2013
Publication Date: February 1, 2013
Effective Dates: February 1, 2013 through June 30, 2013

Children and Families

Safety and Permanence, Chs. DCF 37–59

EmR1212 — The Wisconsin Department of Children and Families orders the creation of **Chapter DCF 55**, relating to subsidized guardianship.

This emergency rule was approved by the governor on August 28, 2012.

The statement of scope for this rule, SS 040–12, was approved by the governor on June 8, 2012, published in Register No. 678 on June 30, 2012, and approved by Secretary Eloise Anderson on July 16, 2012.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Guardians who entered into subsidized guardianship agreements with an agency when the statewide subsidized guardianship program was implemented in August 2011 are now eligible for consideration of an amendment to increase the amount of the subsidized guardianship payments. The rule includes the process for determining eligibility for an amendment.

Filed with LRB: August 31, 2012
Publication Date: September 3, 2012
Effective Dates: September 3, 2012 through January 30, 2013
Extension Through: May 30, 2013
Hearing Date: November 30, 2012

Children and Families

Early Care and Education, Chs. DCF 201–252

EmR1216 — The Wisconsin Department of Children and Families orders the creation of **section DCF 201.04 (2j)**, relating to circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider and affecting small businesses.

This emergency rule was approved by the governor on October 19, 2012.

The statement of scope for this rule, SS 054–12, was approved by the governor on July 30, 2012, published in Register No. 680 on August 14, 2012, and approved by Secretary Eloise Anderson on August 27, 2012.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

Section 49.155 (3m) (d), Stats., as affected by 2011 Wisconsin Act 32, provides that no child care subsidy funds may be used for child care services that are provided for a child by a child care provider who is the parent of the child or who resides with the child. In addition, no child care subsidy funds may be used for child care services that are provided by another child care provider if the child's parent is a child care provider. The prohibition on assistance does not apply if the child's parent has applied for, and been granted, a waiver. Implementation of an emergency rule specifying the circumstances under which the department or an agency will grant a waiver is necessary to protect certain vulnerable children.

Filed with LRB: November 13, 2012
Publication Date: November 15, 2012
Effective Dates: November 15, 2012 through April 13, 2013
Extension Through: June 12, 2013
Hearing Date: January 14, 2013

Justice

EmR1217 — The State of Wisconsin Department of Justice (“DOJ”) proposes an order to re–create **Chapter Jus 17 and Chapter Jus 18**, relating to licenses authorizing persons to carry concealed weapons; concealed carry certification cards for qualified former federal law enforcement officers; the recognition by Wisconsin of concealed carry licenses issued by other states; and the certification of firearms safety and training instructors.

The statement of scope for these emergency rules was approved by Governor Walker on February 15, 2012, published in Administrative Register No. 674, on February 29, 2012, and approved by Attorney General J.B. Van Hollen on March 12, 2012.

These emergency rules were approved in writing by the governor on December 4, 2012, pursuant to Wis. Stat. s. 227.24 (1) (e) 1g.

Finding of Emergency

Under section 101 of 2011 Wis. Act 35, DOJ has been statutorily required to receive and process concealed carry license applications and to issue or deny licenses since November 1, 2011. The Legislature has thus determined that the public welfare requires the licensing system commenced on that date to remain continuously in effect. In order for DOJ to accomplish that goal and comply with all applicable statutory requirements, it is necessary to continuously have in effect administrative rules establishing the procedures and standards that govern the enforcement and administration of those requirements.

Emergency rules governing the licensing process were first adopted on October 25, 2011, and have been continuously in effect since November 1, 2011. The emergency rules were subsequently repealed and recreated with an effective date of March 21, 2012. Pursuant to s. 227.24 (2) (a), Stats., the Joint Committee for the Review of Administrative Rules has authorized the current emergency rules to remain in effect through December 15, 2012.

DOJ is in the process of promulgating permanent administrative rules which, when completed, will replace the emergency rules. On September 5, 2012, the final draft of the proposed permanent rules and accompanying reports were submitted for legislative review, pursuant to s. 227.19 (2), Stats. The permanent rulemaking process, however, will not be completed prior to the anticipated expiration of the existing emergency rules on December 15, 2012. Upon such expiration, DOJ would no longer have in effect administrative rules establishing the procedures and standards that govern the concealed carry licensing program. Any such lack of continuity in the operation of the licensing program would be confusing and disruptive both for license applicants and for DOJ staff administering the program.

The public welfare thus requires that additional emergency rules be promulgated, in order to ensure that there is no interruption in DOJ's ability to continue to carry out all of its statutory responsibilities in administering and enforcing the concealed carry licensing program. These rules will prevent such a discontinuity and ensure continuous and uniform operation of the concealed carry program through the time of completion of the permanent rulemaking process that is already under way. Only if DOJ utilizes the emergency rulemaking procedures of s. 227.24, Stats., can these emergency rules be promulgated and in effect in time to prevent discontinuity in the operation of the existing rules. The public welfare thus necessitates that the rules proposed here be promulgated as emergency rules under s. 227.24, Stats.

Filed with LRB: December 10, 2012
Publication Date: December 15, 2012
Effective Dates: December 15, 2012 through May 13, 2013
Extension Through: July 12, 2013

Natural Resources (2)

Fish, Game, etc., Chs. NR 1—

1. EmR1210 (DNR # WM–09–12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 10.001 (25c), 10.02 (1), 10.06 (5) and (8) (intro.), 10.07 (2) (b) 2., 10.07 (2m) (intro.) and (e) (intro.), 10.07 (2m) (f) (intro.), 10.09 (1), 10.13 (1) (b) 9., 10.13 (1) (b) 15., 10.13 (1) (b) 16., 10.145 (intro), 10.145 (3) to (8), 12.10 (intro.), 12.10 (1) (a) 4., 12.10 (1) (b) 2., 12.15 (13) and 19.25** and to create **sections NR 10.001 (22q), 10.001 (23a), 10.001 (23am), 10.001 (23b), 10.001 (26g), 10.001 (33), 10.01 (3) (j), 10.07 (1) (m), 10.07 (2m) (em), 10.07 (2m) (g) 3., NR 10.07 (4), 10.13 (1) (b) 15m., 10.13 (1) (b) 18., 10.145 (1m), (1u) and Note, sections NR 10.16 (5), 10.295, 12.15 (11) (e), 12.60 to 12.63, 12.64 (1) (a) and (b) (intro.) 1., 12.64 (1) (b) 2. and 3., 12.64 (1) (b) 4. and 5., 12.64 (2) (a) to (c), 12.64 (2) (d), 12.64 (3) and 12.65**, relating to the wolf hunting and trapping season and regulations and a depredation program.

This emergency rule was approved by the governor on August 10, 2010.

The statement of scope for this rule, SS 023–12, was approved by the governor on April 12, 2012, published in Register No. 676, on April 30, 2012, and approved by the Natural Resources Board on May 23, 2012.

Finding of Emergency

A non–statutory provision, SECTION 21, of 2011 ACT 169 requires the department to submit rules necessary for implementation or interpretation and establishes that the department is not required to make a finding of emergency.

Filed with LRB: August 15, 2012

Publication Date: August 18, 2012

Effective Dates: August 18, 2012 through the date on which the permanent rules take effect, as provided in 2011 Wisconsin Act 169, section 21.

2. EmR1304 (DNR # FH-23-12(E)) — The Wisconsin Natural Resources Board proposes an order to amend **sections NR 20.20 (73) (n) 4., 25.06 (1) (a), and 25.09 (1) (am) 3. e.**, relating to lake trout harvest limits in Lake Superior.

The statement of scope for this rule, SS 097-12, was approved by the Governor on December 14, 2012, published in Register No. 684 on December 31, 2012, and approved by the Natural Resources Board on January 23, 2013.

Finding of Emergency

Pursuant to s. 227.24, Stats., the department finds that an emergency exists and that this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The welfare of state-licensed commercial fishers, tribal commercial fishers, recreational anglers, and associated businesses is threatened by a decline in the lake trout population in the Apostle Islands vicinity of Lake Superior. The continued, persistent decline in lake trout population abundances and predicted further declines necessitate the current reductions in order to ensure a sustainable lake trout fishery over the long-term. Lake trout harvest limits were negotiated in October 2012 among the Department of Natural Resources and the Red Cliff and Bad River Bands of Lake Superior Chippewa and those changes must be ordered through administrative code. This emergency rule is needed to preserve the public welfare.

Filed with LRB: March 9, 2013

Publication Date: March 27, 2013

Effective Dates: March 27, 2013 through August 23, 2013

Hearing Date: April 11, 2013

Public Instruction

EmR1303 — The state superintendent of public instruction hereby creates **ch. PI 47**, relating to the equivalency process for approving alternative models to evaluate educator practice.

The scope statement for this rule, SS 013-13, was published in Register No. 686, on February 14, 2013, and approved by Superintendent Evers, on February 25, 2013. Per the Dane County Circuit Court order issued in *Coyne, et al. v. Walker, et al.*, Case No. 11-CV-4573, the Department of Public Instruction is not required to get the Governor's approval for the statement of scope or this rule.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of the facts constituting the emergency is:

Section 115.415 (3), Stats., requires the department to establish an equivalency process for reviewing alternative educator effectiveness systems. The statute also specifies criteria on which the process shall be based, including alignment to the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders

Licensure Consortium Educational Leadership Policy Standards. Additionally, the statute explains certain approval requirements.

The Educator Effectiveness System will be fully implemented and mandatory throughout the entire state by the 2014-15 school year. The pilot, which allows schools and districts to implement the system and inform modifications, will go into effect during the 2013-14 school year.

In order to have possible alternative models available for pilot use in 2013-14, there is an urgent need to get the equivalency process in place to approve other evaluation models. Districts intending on applying for an equivalency review of an alternative model must alert the department in writing by March 15, 2013, and January 15 each subsequent year. They must submit their application by April 15 of this year and March 15 each subsequent year in order to be approved.

Filed with LRB: March 4, 2013

Publication Date: March 8, 2013

Effective Dates: March 8, 2013 through August 4, 2013.

Safety and Professional Services

Professional Services, Chs. SPS 1—299

EmR1302 — The Wisconsin Department of Safety and Professional Services hereby adopts an order to amend **sections SPS 60.01; SPS 61.02 (1) (a), (2) (a), (3) (a), and (4) (a); 62.10 (title) and 62.10; 65.01; 65.02 (1); 65.07; and 65.12 (1) (h) and (i) 6.**; and to create **chapter SPS 205** relating to barbers and to barbering and cosmetology schools and instructors, and affecting small business.

This emergency rule was approved by the Governor on February 5, 2013.

The statement of scope for this rule, SS 063-12, was approved by the Governor on August 10, 2012, published in Register 680, on August 31, 2012, and approved by Secretary Dave Ross on October 15, 2012.

Finding of Emergency

The Department of Safety and Professional Services finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

On July 1, 2012, 2011 Wisconsin Act 190 transferred regulatory authority over barbers from the Barbering and Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the educational requirements for initial licensure of barbers, and the continuing-education requirements for renewal of barber licenses. Due to the transfer of authority and the changes in education requirements, immediate rulemaking by the Department is needed to implement corresponding rule changes prior to April 1, 2013, which is the renewal date mandated by section 440.08 (2) (a) of the Statutes for all barbering licenses.

Filed with LRB: February 14, 2013

Publication Date: February 14, 2013

Effective Dates: February 14, 2013 through July 13, 2013

Scope Statements

Employment Relations Commission

SS 045-13

This statement of scope was approved by the governor on April 19, 2013.

Rule No.

Creates Chapters ERC 70 to 74, and 80.

Relating to

Annual certification elections.

Rule Type

Emergency and Permanent.

1. Finding/Nature of Emergency (Emergency Rule Only)

The public peace, health, safety and welfare necessitate emergency rule-making so that the Wisconsin Employment Relations Commission can meet its statutory annual certification election obligations under ss. 111.70 (4) (d) 3. b. and 111.83 (3), Stats.

2. Detailed Description of the Objective of the Proposed Rule

Establishes the cost, timing and procedures applicable to annual certification elections.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The proposed rulemaking does not alter or establish policy. The proposed rulemaking only implements the Commission's statutory responsibility under ss. 111.70 (4) (d) 3. b. and 111.83 (3) (b), Stats.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Sections 111.71, 111.94, 227.11 and 227.44, Stats.

5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

100 hours.

6. List with Description of all Entities that may be Affected by the Proposed Rule

All municipal employers, the State of Wisconsin, all municipal and State employees who are eligible to be represented by a labor organization for the purposes of collective bargaining, and all labor organizations who do or wish to represent employees of a municipal employer or the State of Wisconsin for the purposes of collective bargaining.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

There are no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

Impact limited to the fees paid by labor organizations that choose to file a petition for annual certification.

9. Contact Person

Peter Davis, Chief Legal Counsel, (608) 266-2993.

Natural Resources

Environmental Protection — Air Pollution Control, Chs. 400—

SS 050-13

(DNR # AM-19-13)

This statement of scope was approved by the governor on May 1, 2013.

Rule No.

Revises Chapter NR 446, Subchapter III.

Relating to

Control of mercury air emissions from coal-fired electric generating units (EGUs).

Rule Type

Permanent and emergency.

1. Nature of Emergency

The Department is requesting authority for both a permanent and an emergency rule-making process to extend the state mercury rule ch. NR 446, subchapter III, Wis. Adm. Code, compliance date from January 1, 2015, to April 16, 2016. This date may be further modified if necessary to accommodate any potential change in federal implementation dates. This state rule regulates mercury emitted by coal-fired electric generating units (EGUs). Recently federal rules have been promulgated which also regulate mercury emitted by coal-fired EGUs. This proposed rule change facilitates transitioning the EGUs from regulation of mercury emissions under the state rule to the federal rules.

Authority for an emergency rule-making is requested to implement the proposed rule change by January 1, 2015, in the event the permanent rule cannot become effective by that date. A delay in the permanent rule beyond this date may simply result due to the current timeframes and logistics associated with permanent rule-making process. Initiating the rule change by January 1, 2015, is necessary to avoid additional compliance burden and cost to the electric utilities as a result of the current state and federal mercury compliance schedules. In this case, added cost for compliance will be

passed onto the consumer in electricity rates and will harm the public welfare and economy. At the same time there is no definable environmental benefit resulting under the current compliance schedules as compared to the proposed rule change.

2. Detailed Description of the Objective of the Proposed Rule

Chapter NR 446, Subchapters II and III, Wis. Adm. Code, collectively referred to as the “state mercury rule”, regulate mercury emitted by coal–fired electric generating units (EGUs). Under Subchapter II, EGUs were required to comply with a 40% emission control requirement starting January 1, 2010. Subchapter III initiates a second phase of mercury emission control starting *January 1, 2015*. The requirements under the second phase are 90% control for large EGUs and use of Best Available Control Technology (BACT) for small EGUs. The second phase of control under the state rule is anticipated to affect 35 coal–fired EGUs operating at 14 Wisconsin power plants.

The U.S. EPA recently promulgated two federal mercury control rules that regulate the same coal–fired EGUs that are subject to the second phase of state mercury rule requirements starting January 1, 2015. The two federal rules are the Mercury and Air Toxics Standards (MATS) and the Industrial, Commercial, and Institutional (ICI) Boiler rule with initial compliance dates of April 16, 2015 and January 31, 2016, respectively.

According to Wisconsin Statute s. 285.27 (2) (d), when the affected EGUs are regulated by their applicable federal mercury emission standard they will then become exempt from the state mercury rule requirements. This means that on January 1, 2015, the 35 affected coal–fired EGUs will be subject to state rule requirements and then exempt a short time later when they comply with either the MATS rule beginning April 16, 2015, or the ICI boiler rule beginning January 31, 2016. The result is that the federal MATS and ICI boiler rules set the long–term mercury emissions control requirements for the affected EGUs.

The Department examined the interaction between the state and federal rules. The Department has found that the state and federal rule requirements will both implement deep mercury reductions. However, the differences between the state and federal rules are likely meaningful enough to require a different focus in planning, control strategies, and installation of equipment for some of the utilities. Potential differences include approaches to emissions averaging, annual versus 30–day emission limitations, and administrative requirements. One major difference is that the federal rules will focus compliance on an individual unit basis whereas the state rule allows compliance averaging over an operator’s EGU fleet. The impact of the differences between the state and federal requirements is further compounded due to the short time between their initial compliance dates.

Under these circumstances, the Department believes that requiring affected EGUs to comply with the state mercury rule requirements beginning on January 1, 2015, and then transitioning to the federal rule requirements beginning on April 16, 2015, and January 31, 2016, will result in unnecessary regulatory burden and cost. Therefore, the Department proposes to extend the compliance date for the second phase of state rule requirements until April 16, 2016. The proposed April 16, 2016, compliance date for the state rule is significant because it coincides with and will accommodate approval of a one year compliance extension

available under the federal rules. In this way, the EGUs will not become subject to the state rule second phase requirements, via exemption under the state statute, unless the federal rules are delayed.

In summary, revising the state mercury rule second phase compliance date to April 16, 2016 achieves the following objectives:

- Avoids compliance with two different mercury control rules in a staggered fashion, thus simplifying administrative requirements, planning, equipment installations and avoids undue cost in achieving the deep mercury control levels.
- Maintains the existing state mercury rule requirement under ch. NR 446 Subchapter II, Wis. Adm. Code, for 40% mercury control until EGUs comply with the federal standards and become exempt from all state mercury requirements.
- Maintains ch. NR 446 Subchapter III, Wis. Adm. Code, requirements in the event that federal rules are delayed. Maintaining the state mercury rule in a backup position ensures that health–based emission requirements targeted by both the federal and state rules will be achieved in a reasonable time–frame in order to fulfill the state finding for mercury control; and
- Allows granting of the one–year extension to federal MATS requirements until April 16, 2016, on a case–by–case basis, in order to maintain reliability without being in conflict with the state mercury rule requirements.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Existing Policy and Rules

Mercury has been determined to be a hazardous pollutant that bio–accumulates in the environment and impacts human and wildlife health. This impact has resulted in the need to issue a state–wide advisory for the consumption of fish for all Wisconsin waters.

State Mercury Rule: In 2008, the state made a “health–based finding” in accordance with Wisconsin Statute s. 285.27 (2) (b) that requires reduction of mercury emitted by coal–fired EGUs. To fulfill this finding, the state enacted the state mercury rule as described in item 2 discussion of the rule objective. The state mercury rule 40% control requirement that began in 2010 is the first step in fulfilling the state health finding. The January 1, 2015, requirement is the second step of deep reductions necessary in fulfilling the finding.

Federal Mercury Rules: In accordance with the Clean Air Act (CAA), Section 112, the U.S. EPA has recently promulgated two rules that regulate mercury for the same coal–fired EGUs subject to the state rule. Of the EGUs subject to the state rule, 32 EGUs will be regulated under the MATS rule beginning April 16, 2015. The remaining 3 EGUs will be regulated under the ICI boiler rule. Refer to description of federal rule in item 2 discussion of the rule objective for more details.

Wisconsin Statute for Exemption: According to Wisconsin Statute s. 285.27(2)(d), EGUs will be exempt from state mercury rule requirements of the state mercury rule, ch. NR 446, Subchapters II and III, Wis. Adm. Code, when the EGUs begin regulating mercury emissions under the MATS and ICI boiler rules. Wisconsin Statute s. 285.27 (2) (d) reads:

“Emissions limitations promulgated under par. (b) and related control requirements do not apply to hazardous air contaminants emitted by emissions units, operations, or activities that are regulated by an emission standard promulgated under section 112 of the federal clean air act”

New Policy

The Department does not view this proposed rule change as new policy regarding the control of mercury emitted by coal-fired EGUs. Rather, the Department believes the proposed rule change implements existing policy by facilitating transition to the federal rules as the intended long-term mercury regulatory requirement. Specifically, the proposed rule supports existing policy for the following reasons:

- 1) The proposed rule change maintains ensures the state health finding is fulfilled in two ways. First, the 40% control requirement is maintained until federal requirements apply. Second, deeper control requirements under the state rule will occur by April 16, 2016 in the event federal rules are delayed.
- 2) Existing policy, as set under Wisconsin Statute s. 285.27 (2) (d), directs that the federal rules, when in place, will be the long-term compliance requirement for controlling mercury emissions. This rule change facilitates transition to the federal requirements.
- 3) This proposed rule change does not result in a definable difference in the amount of mercury emitted to the environment versus what the state rule would have achieved without promulgation of the federal standards. The Department has estimated that in 2015, the federal rule alone can result in emissions ranging from 34 pounds more of mercury emitted to the environment or up to 80 pounds less of mercury emitted when compared to implementing the state rule alone.

Analysis of Alternatives

One alternative to the proposed rule is to take no action to address the transition from the state to the federal rules. The “No Action” option may result in undue compliance burden and cost. Further, the comparison of mass mercury reduction in 2015 resulting under the state and federal rules does not indicate a clear environmental benefit to maintaining the January 1, 2015, requirement under the state mercury rule.

Another option is to repeal the state mercury rules effective when EGU mercury emissions are regulated under the federal rules. However, this is not a simple approach to implement since the two federal rules have different compliance dates. In addition, pending litigation introduces uncertainty as to the final disposition and implementation of the federal rules and, consequently, the fulfillment of the state health-based finding. Essentially, this option is already implemented by the default exemption when EGUs are regulated under the federal rules. The proposed rule option facilitates the intended exemption from the state rule.

For these reasons, the Department believes extending the initial compliance date of the state mercury rule second phase requirements to April 16, 2016, is the preferred and least controversial option at this time.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Wisconsin Statute s. 227.11 (2) (a). Each agency may promulgate rules interpreting the provisions of any statute

enforce or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

Wisconsin Statute s. 285.11 (9). Prepare and adopt minimum standards for the emissions of mercury compounds or metallic mercury into the air, consistent with s. 285.27 (2) (b).

5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

Permanent Rule: The Department anticipates the rule-making process to range from 18 to 20 months and require approximately 700 hours of Department staff time. This includes one primary staff employee at 20 hours per month, one supervisor at 5 hours per month, and additional technical, administrative, and legal staff at 2 hours per month.

Emergency Rule: In the event that an emergency rule is initiated, the rule language and supporting materials developed during the permanent rule making process will provide the necessary base information for the emergency rule. The Department only anticipates additional work for preparing documents specific to the emergency rule process. Therefore, the Department is allotting 120 hours of staff and supervisory time specifically for administering the emergency rule process.

5. List with Description of all Entities that may be Affected by the Proposed Rule

The Department anticipates 35 EGUs will be subject to the state mercury rule requirements that must be complied with on January 1, 2015. Of these EGUs, 32 will be subject to the federal MATS rule and 3 will be subject to the ICI Boiler rule. The affected EGUs are owned or operated by the following utility entities: Alliant Energy, Dairyland Power Cooperative, Manitowoc Public Utilities, Wisconsin Public Service Corporation, We Energies, and Xcel Energy.

6. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

Refer to previous discussions of the federal MATS and ICI boiler rules under item 2, the description of the rule objective; and 3, the description of existing rules and policy.

7. Anticipated Economic impact of Implementing the Rule (Note if the Rule is Likely to Have an Economic Impact on Small Businesses)

The economic impact of the proposed rule is expected to be minimal. The rule modification will not result in additional cost versus existing requirements under ch. NR 446, Subchapter II and III, Wis. Adm. Code. One goal of the rule change is to minimize any cost impact caused by transitioning from state to federal rule requirements over a short period of time. The proposed rule will not affect small businesses.

8. Contact Person

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Revenue

SS 044–13

This statement of scope was approved by the governor on April 17, 2013.

Rule No.

Creates section Tax 2.465.

Relating to

The apportionment of Wisconsin apportionable income of interstate air freight forwarders that are affiliated with a direct air carrier.

Rule Type

Permanent.

1. Detailed Description of the Objective of the Proposed Rule

If the proper amount of income assignable to Wisconsin for any corporation cannot be determined with reasonable certainty using the current apportionment rules, the department may prescribe rules.

Currently, there are taxpayers in Wisconsin who facilitate the transportation of property by air, and would otherwise be required to use the apportionment rules provided for interstate air carriers, except they do not operate any aircraft. These businesses are commonly known as air freight forwarders.

The department's objective is to create s. Tax 2.465 to specify the apportionment factors for determining the amount of income assignable to Wisconsin for air freight forwarders that are affiliated with a direct air carrier.

2. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Existing policies for assigning income to Wisconsin are set forth in the rules. Specifically, s. Tax 2.46 describes the factors used to apportion income to Wisconsin for interstate air carriers. The proposed rules will provide guidance to air freight forwarders on how to properly apportion/assign income to Wisconsin. If a rule is not implemented, there will continue to be uncertainty for these businesses as they plan, prepare, and file their Wisconsin tax returns.

3. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Sections 71.04 (8) (c) and 71.25 (10) (c), Wis. Stats., require the department to promulgate rules for apportioning income of specialized industries, specifically “The net business income of railroads, sleeping car companies, car line companies, pipeline companies, financial organizations, telecommunications companies, air carriers, and public utilities requiring apportionment shall be apportioned pursuant to rules of the department of revenue, but the income taxed is limited to the income derived from business transacted and property located within the state.”

Section 71.25 (12), Wis. Stats., provides “If the income of any such corporation properly assignable to the state of Wisconsin cannot be ascertained with reasonable certainty by the methods under this section, then the same shall be apportioned and allocated under such rules as the department of revenue may prescribe.”

Section 227.11 (2) (a), Wis. Stats., provides “[e]ach agency may promulgate rules interpreting the provisions of any

statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute...”

4. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The department estimates it will take approximately 100 hours to develop the rule.

5. List with Description of all Entities that may be Affected by the Proposed Rule

Air freight forwarders who are not direct air carriers, but are affiliated with direct air carriers.

6. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

7. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

No economic impact is anticipated.

8. Contact Person

Dale Kleven, (608) 266–8253.

Safety and Professional Services

Safety, Buildings, and Environment — Plumbing, Chs. SPS 381–387

SS 048–13

This statement of scope was approved by the governor on April 29, 2013.

Rule No.

Revises chapters SPS 381 to 384.

Relating to

EPA Lead Reduction Rule, US Safe Drinking Water Act of 2011.

Rule Type

Permanent.

1. Finding/Nature of Emergency (Emergency Rule Only)

N/A.

2. Detailed Description of the Objective of the Proposed Rule

The objective of the rule is to revise portions of the state plumbing code, chs. SPS 381 to 384, to conform to the US Safe Drinking Water Act of 2011 [SDWA, 42 USC 300g–6], which becomes effective January 4, 2014. Proposed revisions pertain to updating the definition for “lead-free” and adopting by reference an updated standard, ANSI/NSF–61 which reflects the SDWA. In addition, new text may need to be created to specify exemptions to the law. Minor formatting changes and typographical errors may also be addressed at this time.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The SDWA of 2011 re-defines “lead-free” as being not more than 0.2 percent lead with respect to solder and flux, and

not more than a weighted average of 0.25 percent lead with respect to wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures. The current code, ch. SPS 381 defines “lead-free” as “a chemical composition equal to or less than 0.2% of lead”. Other portions of the plumbing code relating to water service piping and materials stipulate that all pipes and pipe fittings for potable water supply systems shall be made of a material that contains not more than 8% lead, a level substantially above the new standard.

Additionally, the proposed revisions will require the department to incorporate by reference one updated national standard ANSI/NSF 61-2010, Drinking Water System Components — Health Effects.

Not moving forward with these proposed revisions will result in the State of Wisconsin being out of compliance with the SDWA of 2011, which restricts permissible levels of lead in drinking water components and provides manufacturers and distributors a protocol to assure compliance. (To date, only four states have revised their rules to be in compliance with the law before the effective date: California, Louisiana, Maryland and Vermont.)

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 227.11 (2), Stats.: “Rule-making authority is expressly conferred as follows: (a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 145.02 (2), Stats.: “The department shall have general supervision of all such plumbing and shall after public hearing prescribe and publish and enforce reasonable standards therefor which shall be uniform and of statewide concern so far as practicable. ...”

Section 145.13, Stats.: “Adoption of plumbing code. The state plumbing code and amendments to that code as adopted by the department have the effect of law in the form of standards statewide in application and shall apply to all types of buildings, private or public, rural or urban, including buildings owned by the state or any political subdivision thereof. The state plumbing code shall comply with ch. 160 (Wis. Stats.). All plumbing installations shall so far as practicable be made to conform to such code.”

5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of other Resources Necessary to Develop the Rule

The staff time needed to develop the rules is expected to be about 180 hours, which may include convening an advisory committee. This estimate includes research, rule drafting, public hearing through adoption. Two copies of the adopted standard will be purchased for approval prior to rule adoption. All work will be accomplished by existing staff.

6. List with Description of all Entities that may be Affected by the Proposed Rule

Local water purveyors, product manufacturers and distributors, plumbing designers, and inspectors.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is

Intended to Address the Activities to be Regulated by the Proposed Rule

To conform with the SDWA of 2011, which will be in effect January 4, 2014, the proposed revisions will revise both the definition of and the means to determine “lead-free” which now exist in the state plumbing code.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

This rule-making project will not impose any additional impact on small business above or beyond what is required by the federal government.

9. Contact Person

Jean MacCubbin, (608) 266-0955.

Safety and Professional Services — Pharmacy Examining Board

SS 047-13

This statement of scope was approved by the governor on April 29, 2013.

Rule No.

Revises Chapter Phar 18.

Relating to

The administration of the prescription drug monitoring program.

Rule Type

Permanent.

1. Finding/Nature of Emergency (Emergency Rule Only)

N/A.

2. Detailed Description of the Objective of the Proposed Rule

The Pharmacy Examining Board (Board) seeks to modify ch. Phar 18 to conform to statutory changes in 2013 Wis. Act 3 which removed veterinarians from the list of practitioners required to comply with the requirements of the Prescription Drug Monitoring Program (PDMP). Specifically, the modifications would delete the definition of “veterinary dispenser” in s. Phar 18.02 (22), delete all subsequent uses of the term “veterinary dispenser” in this chapter, amend the required data elements identified in s. Phar 18.04 by modifying the requirements previously added to enable veterinary dispensers to more easily comply with the rules, and correct the citations to the statute due to the statutory changes in Act 3.

3. Description of the Existing policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

Currently, ch. Phar 18 contradicts the statutory directive to create the PDMP in s. 450.19, Stats., as modified by 2013 Wis. Act 3. The current language in ch. Phar 18 requires veterinarians, or “veterinary dispensers” under the rule, to collect and submit to the PDMP specific data about monitored prescription drugs that they dispense. 2013 Wis. Act 3 removed veterinarians from the definition of “practitioners”

required to collect and submit data to the PDMP and prevents the Board from requiring veterinarians to submit data that they have collected pursuant to the current rule language. An alternative to the making the modifications is to not make the modifications, which would result in ch. Phar 18 continuing to contradict s.450.19, Stats., as amended by 2013 Act 3.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

In s. 450.19 (2), Stats., the legislature directs the Board to establish rules to govern the PDMP. In s. 961.31, Stats., the legislature also authorizes the Board to promulgate rules relating to the dispensing of controlled substances. Finally, in ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., the legislature confers to the Board the powers to promulgate rules for the guidance of the profession and to interpret the provisions of statutes it enforces.

5. Estimate of Amount of Time that State Employees will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

40 hours.

6. List with Description of all Entities that may be Affected by the Proposed Rule

1) Licensees who are authorized to prescribe and dispense controlled substances: Advanced Practice Nurse Prescribers, Anesthesiologist Assistants, Dentists, Pharmacies, Pharmacists, Physicians, Physician Assistants, Podiatrists, and Veterinarians.

2) Department of Safety and Professional Services Staff.

7. Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

There are no existing or proposed federal regulations intended to address the activities regulated by the proposed rule.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

There is no anticipated economic impact of the proposed rule.

9. Contact Person

Jean MacCubbin, (608) 266-0955.

Safety and Professional Services —

Marriage and Family Therapy, Professional Counseling and Social Work Examining Board

SS 049-13

This statement of scope was approved by the governor on April 29, 2013.

Rule No.

Revises chapter MSPW 3.

Relating to

Applications.

Rule Type

Permanent.

This amended Statement of Scope replaces the Statement of Scope submitted to the Governor on March 13, 2013.

1. Finding/Nature of Emergency (Emergency Rule Only)

N/A

2. Detailed Description of the Objective of the Proposed Rule

The current rule states a temporary credential may not be renewed and the statutes provide for a temporary credential to be renewed once. The objective of the proposed rule is to bring conformity between the statute and rule.

3. Description of the Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The rule regulating temporary credentials is not consistent with the statutes in that the statutes provide for a temporary credential to be renewed once and the rule states it may not be renewed.

The alternative to correcting the temporary credential renewal rule is to continue to have it contradict the statutes.

4. Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Section 15.08 (5) (b), Stats. Each examining board shall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.

Section 457.03, Stats. The examining board shall upon the advice of the social worker section...promulgate rules establishing minimum standards for educational programs that must be completed for certification or licensure under this chapter and for supervised clinical training that must be completed for licensure as a clinical social worker...and approve educational programs and supervised clinical training programs in accordance with those standards.

5. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

50 hours.

6. List with Description of all Entities that may be Affected by the Proposed Rule

Applicants for social worker temporary credentials.

7. Summary and preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

None.

8. Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

Minimal to none.

9. Contact Person

Sharon Henes at (608) 261-2377.

Workforce Development

Employment and Training, Chs. 805—830

SS 046-13

This statement of scope was approved by the governor on April 24, 2013.

Rule No.

Creates chapter DWD 801.

Relating to

Workforce training grants under 2013 Wisconsin Act 9.

Rule Type

Permanent.

The Department of Workforce Development (DWD) gives notice pursuant to s. 227.135, Stats., that it proposes to create new rules in Chapter DWD 801 to implement the program of workforce training grants enacted by 2013 Wisconsin Act 9.

Detailed Description of the Objective of the Proposed Rule

In 2013 Wisconsin Act 9, the Governor and Legislature have enacted s. 106.27, Wis. Stats., which provides that DWD shall award grants to public and private organizations for the development and implementation of workforce training programs. The organizations that receive the grants are allowed to use the funds for the training of unemployed and underemployed workers and incumbent employees of businesses in this state. The grants are intended to respond to the identified needs of employers and employees. The objective of this proposed rule, as required by the statute, is to prescribe the procedures and criteria for awarding these grants and to specify the information that is to be contained in reports to describe how grant funds are expended and what outcomes are achieved.

Description of Existing Policies Relevant to the Rule, New Policies Proposed to be Included in the Rule, and an Analysis of Policy Alternatives

The new policies which will be proposed in the rule will establish the basic procedures and criteria for the awarding of grants, which will include requirements for written proposals, standards for the evaluation of the proposals, and a description of the extent to which matching funds will be required. The new policies will also describe the reports required by the statute which are intended to provide a record of how the grant funds were expended and what outcomes were achieved.

Detailed Explanation of Statutory Authority for the Rule (Including the Statutory Citation and Language)

Sec. 106.27(2g), Wis. Stats., provides as follows:

(2g) IMPLEMENTATION. (a) *Duties*. To implement this section, the department shall do all of the following: 1. Promulgate rules prescribing procedures and criteria for awarding grants under sub. (1) and the information that must be contained in the reports required under subd. 3.

Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule

The estimated time is 200 hours.

List with Description of all Entities that May Be Affected by the Proposed Rule

The grant program, and therefore these rules, will primarily affect employers or organizations that are interested or involved in providing workforce training programs and individuals who are seeking training to improve their prospects for obtaining employment.

Summary and Preliminary Comparison with any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule

These grants are intended to complement and coordinate with existing job training opportunities under federal Workforce Investment Act, 29 U.S. Code 2801, 20 CFR Part 652.

Anticipated Economic Impact of Implementing the Rule (Note if the Rule is Likely to Have a Significant Economic Impact on Small Businesses)

Because this rule carries forward the initiative created by 2013 Wisconsin Act 9, the fiscal note for the bill that was enacted as Act 9, 2013 Assembly Bill 14 (copy attached) also states the anticipated economic impact of the rules.

Contact Person

For program questions:

Rebecca Kikkert, DWD Division of Unemployment Insurance

201 E. Washington Avenue, Madison WI 53703

(608) 266-5536, BeckyL.Kikkert@dwd.wisconsin.gov.

For rulemaking questions:

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Madison WI 53707

(608) 266-9427

Howard.Bernstein@dwd.wisconsin.gov.

Submittal of Proposed Rules to Legislative Council Clearinghouse

Please check the Bulletin of Proceedings – Administrative Rules for further information on a particular rule.

Public Service Commission CR 13-033

(PSC Docket No. 1-AC-227)

Pursuant to s. 227.14 (4m), Stats., on April 29, 2013, the Public Service Commission of Wisconsin submitted a proposed rule to the Joint Legislative Council Staff (Rules Clearinghouse) for review.

This rule is not subject to s. 227.135 (2), Stats., as affected by 2011 Wisconsin Act 21. The scope statement for this rule, published in Wisconsin Administrative Register No. 641 on May 15, 2009, was sent to the Legislative Reference Bureau prior to June 8, 2011.

Analysis

The proposed rule, Commission docket, 1-AC-227, revises Chapters PSC 113, 134, and 185, relating to the retention of electric, gas, and water meters for accuracy testing.

Agency Procedure for Promulgation

A public hearing will be held on Thursday, May 30, 2013, at 1:30 p.m., at the Public Service Commission building, 610 North Whitney Way, Madison, Wisconsin.

Contact Person

The Office of General Counsel of the Commission is the organizational unit responsible for the promulgation of the rule. The contact person is Joyce Mahan Dingman, Docket Coordinator, at (608) 267-6919, or joyce.dingman@wisconsin.gov.

Safety and Professional Services Professional Services, Chs. 1-299 CR 13-030

On April 23, 2013, the Department of Safety and Professional Services submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 087-12 was approved by the Governor on November 8, 2012, published in Register No. 683 on November 30, 2012, and approved by the Department of Safety and Professional Services on April 12, 2013.

Analysis

Statutory Authority: ss. 227.11 (2) (a) and 440.03 (7m), Stats.

This proposed rule-making order revises s. SPS 132.05 (1), related to the biennial renewal date for home inspectors.

Agency Procedure for Promulgation

A public hearing is required and will be held on June 3, 2013, at 1400 East Washington Avenue, Madison, WI (enter at 55 North Dickinson Street).

Contact Person

Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, (608) 261-4438 or email Shancethea.L Leatherwood@wisconsin.gov.

Safety and Professional Services — Veterinary Examining Board CR 13-031

On April 22, 2013, the Veterinary Examining Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 026-12, was approved by the Governor on April 19, 2012, published in Register No. 677 on May 14, 2012, and approved by the Veterinary Examining Board on August 1, 2012.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) (a), and 453.03 (1), Stats.

This proposed rule-making order revises section VE 1.02 and Chapters VE 7, 8, and 9, relating to standards of practice and unprofessional conduct of veterinarians and certified veterinary technicians.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 29, 2013 at 1400 East Washington Avenue, Room 121, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, (608) 261-4438 or email Shancethea.L Leatherwood@wisconsin.gov.

Safety and Professional Services — Veterinary Examining Board CR 13-032

On April 22, 2013, the Veterinary Examining Board submitted a proposed rule-making order to the Wisconsin Legislative Council Rules Clearinghouse.

The scope statement for this rule, SS 027-12, was approved by the Governor on April 19, 2012, published in Register No. 677 on May 14, 2012, and approved by the Veterinary Examining Board on August 1, 2012.

Analysis

Statutory Authority: ss. 15.08 (5) (b), 227.11 (2) (a), and 453.03 (1), Stats.

This proposed rule-making order revises chs. VE 2, 3, 4, 5, and 6, relating to licensure temporary permits and examinations.

Agency Procedure for Promulgation

A public hearing is required and will be held on May 29,

2013, at 1400 East Washington Avenue, Room 121A, Madison, Wisconsin (enter at 55 North Dickinson Street).

Contact Person

Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, (608) 261-4438 or email Shancethea.Leatherwood@wisconsin.gov.

Rule-Making Notices

Notice of Hearing

Public Instruction

EmR 1303, CR 13-024

NOTICE IS HEREBY GIVEN That pursuant to s. 115.415 (3), Stats., and interpreting s. 115.415 (3), Stats., the Department of Public Instruction will hold a public hearing as follows to consider emergency and permanent rules to create Chapter PI 47, relating to the equivalency process for educator effectiveness.

Hearing Information

Date: Thursday, June 6, 2013
Time: 3:00 p.m. to 5:00 p.m.
Location: GEF 3 Building, Room 041
125 South Webster St.
Madison, WI

The hearing site is fully accessible to persons with disabilities. If you require reasonable accommodation to access the meeting, please call Katie Schumacher at (608) 267-9127, or leave a message with the Teletypewriter (TTY) at (608) 267-2427, at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Proposed Rule, Fiscal Estimate, and Economic Impact Analysis

The proposed administrative rule, fiscal estimate, and economic impact analysis are available at http://pb.dpi.wi.gov/pb_rulespg. A copy of the proposed rule, fiscal estimate, and economic impact analysis may also be obtained at no cost by contacting Katie Schumacher using the contact information near the end of the notice.

Place Where Comments Are to Be Submitted and Deadline for Submission

The proposed administrative rule is available to review and make comments on at http://pb.dpi.wi.gov/pb_rulespg. Comments can be made by accessing this website or by directly submitting comments to Katie Schumacher using the contact information near the end of the notice. Written comments on the proposed rules received by Katie Schumacher no later than June 17, 2013, will be given the same consideration as testimony presented at the hearing.

Analysis Prepared by the Department of Public Instruction

Statute interpreted

Section 115.415 (3), Stats.

Statutory authority

Section 115.415 (3), Stats.

Explanation of agency authority

Section 115.415 (3), Stats., requires the department to promulgate an equivalency process for measuring alternative models for evaluating educator practice.

Related statute or rule

Section 115.415 (1) and (2), Stats.

Plain language analysis

Section 115.415 (3), Stats., requires the department to establish a process for determining whether alternative models for evaluating educator practice are equivalent to the state standards for educator effectiveness.

The proposed rule establishes the necessary criteria and guidelines for approving an alternative model for evaluating educator practice. This rule lays out the framework for the equivalency review process, what is needed by applicants, and a timeline of implementation.

The statewide implementation of the Wisconsin Educator Effectiveness System begins in the 2014-15 school year, with a pilot program in the 2013-14 school year. Any district, consortium of districts, or charter school established under s. 118.40 (2r), Stats., planning to submit an application for Equivalency Review must provide written notification to the department of the district's intention on or before January 15 of the school year preceding the planned implementation. All applications must be submitted on or before March 15 of the school year preceding the planned implementation. The department will notify applicants of Equivalency Status on or before April 15 of the school year preceding the planned implementation.

Summary of, and comparison with, existing or proposed federal regulations

N/A.

Comparison with rules in adjacent states: Focus on equivalency processes:

Illinois has established a similar educator effectiveness system, the Performance Evaluation Reform Act. Under the Illinois system, teachers and principals may be evaluated by any person who successfully completes training and a pre-qualification. Unlike Wisconsin's state system, Illinois is requiring all districts to design and implement systems to measure teacher and principal performance. Districts then have two options for adopting a new system that incorporates student growth measures into teacher evaluations: a school district can develop its own system that meets minimum standards mandated by state rules, or it can choose to use all or portions of a state-designed optional model. A special advisory group, the Performance Evaluation Advisory Committee, provides input on rules for districts wanting to develop their own teacher and principal evaluation systems, and provides recommendations for a statewide model for principal evaluation and a default/optional model for teacher evaluation.

Iowa allows school districts to design educator evaluation systems as long as they align with the state teaching standards. School districts are required to determine what policies, procedures, and processes are needed to support state teaching standards. Further, teacher evaluation systems must be built around a range of sources of data and information that encourage and support the demonstration of teacher mastery of the state teaching standards.

Michigan is currently in the process of developing an educator evaluation system. The Michigan Council for Educator Effectiveness will develop a fair, transparent, and feasible evaluation system for teachers and school administrators. The system will be based on rigorous standards of professional practice and of measurement. The goal of this system is to contribute to enhanced instruction, improve student achievement, and support ongoing professional learning. Currently, Michigan is in the process of piloting over 800 different systems designed by school districts.

Minnesota has a voluntary educator evaluation system, the Quality Compensation, which allows local districts and exclusive representatives of the teachers to design and collectively bargain for a plan incorporating career ladder/advancement options, job-embedded professional development, teacher evaluation, performance pay, and an alternative salary schedule.

Summary of factual data and analytical methodologies

2011 Wisconsin Act 166 created s. 115.415, Stats., regarding the educator effectiveness evaluation system and the ability to have equivalent models.

Section 115.415 (3), Stats., mandates the promulgation of an equivalency process to review alternative educator evaluation models for use by public school districts and charter schools established under s. 118.40 (2r), Stats. The equivalency process shall be based on the 2011 Interstate Teacher Assessment and Support Consortium and the 2008 Interstate School Leaders Licensure Consortium Educational Leadership Policy Standards.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report

The proposed rules will indirectly benefit some small businesses involved in creating alternative educator evaluation programs since these have the potential to be approved and used throughout the state.

Anticipated costs incurred by private sector

There are no required costs associated with implementing this rule. It provides an opportunity for different businesses and parties which may come with their own costs, but the implementation of the rule itself does not create significant costs.

Effect on small business

The rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Agency contact person

The agency person to be contacted if there are substantive questions on the rules:

Sheila Briggs, Assistant State Superintendent, Division for Academic Excellence, sheila.briggs@dpi.wi.gov, (608) 266-3361.

The agency person to be contacted for the agency's internal processing of rules:

Katie Schumacher, Administrative Rules Coordinator, Katie.Schumacher@dpi.wi.gov, (608) 267-9127.

Agency procedure for promulgation

A public hearing will be held under ss. 227.17 and 227.18, Wis. Stats.

Description of any forms

The Equivalency Review Process Application form is the form that districts, consortia of districts, or charter schools must fill out to apply for approval for their Equivalent Models. The Equivalency Review Process Application form may be obtained at no charge from the Department of Public Instruction, Educator Effectiveness Team, P.O. Box 7841, Madison, WI 53707-7841.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Fiscal Estimate

This rule will impact local government units and specific businesses/sectors. To receive a copy of the complete fiscal estimate, please contact Katie Schumacher using the contact information below.

Economic Impact Analysis

This rule provides school districts, consortia of districts, or charter schools established under s. 118.40(2r), Stats., with the opportunity to develop and submit a new model for evaluating educator practice. The application for approval of an equivalency model takes time to complete. Thus, the rule will require some staff time from the applicants during the application process. To receive a copy of the complete economic impact analysis, contact Katie Schumacher using the contact information below.

Agency Contact Person

Katie Schumacher, Administrative Rules Coordinator and Small Business Regulatory Coordinator, Katie.Schumacher@dpi.wi.gov, Department of Public Instruction, 125 South Webster Street, P.O. Box 7841, Madison, WI 53707-7841.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Economic Impact Analysis

1. Type of Estimate and Analysis

X Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

PI Chapter 47: Educator Effectiveness Equivalency Process

3. Subject

Educator Effectiveness Equivalency Process

4. Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☒ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.255 (1) (hg)

6. Fiscal Effect of Implementing the Rule

☐ No Fiscal Effect
☐ Indeterminate

☒ Increase Costs
☒ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy
☒ Local Government Units

X Specific Businesses/Sectors
☐ Public Utility Rate Payers
☐ Small Businesses (**if checked, complete Attachment A**)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

This rule recognizes the state's model for evaluating educator practice within the Wisconsin Educator Effectiveness System might not suit every district's unique needs. As such, this rule allows a school district, consortium of districts, or charter school established under s. 118.40 (2r), Stats., to submit a new model for evaluating educator practice for review to the department. The equivalency process applies only to the educator practice component within the state system; the student outcomes component is not subject to equivalency.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

School districts and the organization developing their equivalent model were asked about any possible compliance or implementation costs. For this economic impact analysis, the department contacted those school districts and organizations that notified the department of their intention to apply for an equivalent model for the 2013–14 school year.

11. Identify the local governmental units that participated in the development of this EIA.

School districts that notified the department of their intention to apply for an equivalent model for the 2013–14 school year were asked to notify the department of any possible compliance or implementation costs.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule provides school districts, consortia of districts, or charter schools established under s. 118.40 (2r), Stats., with the opportunity to develop and submit a new model for evaluating educator practice. The application for approval of an equivalency model takes time to complete. Thus, the rule will require some staff time from the applicants during the application process.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Benefits of implementing this rule include giving districts more local control in selecting the model for evaluating educator practice that best meets their unique needs. Alternatives include having every district across the state implement the state's model for evaluating educator practice set forth within the Wisconsin Educator Effectiveness System.

14. Long Range Implications of Implementing the Rule

Recognizing each district has unique needs, this rule would allow districts the flexibility to develop or choose an alternative model for evaluating educator practice which best meets those needs.

15. Compare With Approaches Being Used by Federal Government

NA.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois has established a similar educator effectiveness system, the Performance Evaluation Reform Act (PERA) to address the needs of effective educator evaluations. Teachers and principals may be evaluated by any person who successfully completes training and a pre-qualification. Unlike Wisconsin's state model, Illinois is requiring all districts to design and implement systems to measure teacher and principal performance. Districts then have two options for adopting a new system that incorporates student growth measures into teacher evaluations. A school district can develop its own system that meets minimum standards mandated by state rules; or it can choose to use all or portions of a state-designed optional model. A special advisory group, the Performance Evaluation Advisory Committee (PEAC) will provide input on rules for districts wanting to develop their own teacher and principal evaluation systems; and recommendations for a statewide model for principal evaluation and a default/optional model for teacher evaluation.

Iowa allows districts to design educator evaluation systems as long as they align with the state teaching standards. School districts are required to determine what policies, procedures and processes are needed to support Iowa Teaching Standards and Criteria. A teacher evaluation system should be built around a range of sources of data and information that will encourage and support the demonstration of teacher mastery of the Iowa Teaching Standards.

Michigan is currently in the process of developing an educator evaluation system. The Michigan Council for Educator Effectiveness (MCEE) will develop a fair, transparent, and feasible evaluation system for teachers and school administrators. The system will be based on rigorous standards of professional practice and of measurement. The goal of this system is to contribute to enhanced instruction, improve student achievement, and support ongoing professional learning. Currently Michigan is in the process of piloting over 800 different systems designed by school districts.

Minnesota has a voluntary program, Quality Compensation, or Q Comp, that allows local districts and exclusive representatives of the teachers to design and collectively bargain for a plan incorporating career ladder/advancement options, job-embedded professional development, teacher evaluation, performance pay, and an alternative salary schedule.

17. Contact Name

Sheila Briggs

18. Contact Phone Number

(608) 266-3361

This document can be made available in alternate formats to individuals with disabilities upon request

Notice of Hearing

Public Service Commission

(PSC Docket # 1-AC-227)

CR 13-033

The Public Service Commission of Wisconsin proposes an order to repeal s. PSC 113.0921 (1) (g); renumber ss. PSC 113.0923 and (title) and 185.78 and (title); renumber and amend s. PSC 185.77; amend ss. PSC 113.0614, 113.0921 (1) (e) and (f), 113.0922 (title), 134.20, 134.31 (3), 185.19 (1), 185.73 (2), 185.73 (4), and 185.77 (title); repeal and recreate ss. PSC 113.0919 (1) and (2), 134.19 (1) and (2), and 185.46 (1) and (2); and create ss. 113.0919 (1) (title), (2) (title), (3) (title) and (4) (title), 113.0922 (1) (title), 113.0922 (3), 113.0922 (6), 134.19 (1) (title), (2) (title) and (3) (title), 134.31 (4) and (6), 185.46 (1) (title), (2) (title) and (3) (title), a note following 185.76 (6), 185.761 (2) and 185.77 (3) and

(5), regarding the retention of customer meters so that they are available for testing.

Hearing Information

Pursuant to s. 227.16 (2) (b), Stats., the commission will hold a public hearing on these proposed rule changes.

Date: Thursday, May 30, 2013

Time: 1:30 p.m.

Location: Amnicon Falls Hearing Room
Public Service Commission Building
610 North Whitney Way
Madison, WI

This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who

needs to obtain this document in a different format should contact the docket coordinator listed below.

Written Comments

Any person may submit written comments on these proposed rules. The record will be open for written comments from the public, effective immediately, and until Thursday, June 13, 2013, at noon. All written comments must include a reference on the filing to docket 1–AC–227. File by one mode only.

Industry: File comments using the Electronic Regulatory Filing system. This may be accessed from the commission’s website (<http://psc.wi.gov>).

Members of the Public: Please submit your comments in one of the following ways:

- **Electronic Comment:** Go to the commission’s website at <http://psc.wi.gov>, and click on the “ERF – Electronic Regulatory Filing” graphic on the side menu bar. On the next page, click on “Need Help?” in the side menu bar for instructions on how to upload a document.

- **Web Comment:** Go to the commission’s website at <http://psc.wi.gov>, and click on the “Public Comments” button on the side menu bar. On the next page select the “File a comment” link that appears for docket number 1–AC–227.

- **Mail Comment:** All comments submitted by U.S. Mail must include the phrase, “Docket 1–AC–227 Comments” in the heading, and shall be addressed to:

Sandra J. Paske, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707–7854

The commission does not accept comments submitted via e-mail or facsimile (fax). Any material submitted to the commission is a public record and may appear on the commission’s website. The commission may reject a comment that does not comply with the requirements described in this notice.

Small business questions may be directed to Anne Vandervort at (608) 266–5814, or via e-mail at anne.vandervort@wisconsin.gov. Media questions should be directed to Matt Pagel, Acting Communications Director, at (608) 266–9600. Hearing- or speech-impaired individuals may also use the commission’s TTY number: if calling from Wisconsin, (800) 251–8345; if calling from outside Wisconsin, (608) 267–1479.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority and explanation of authority

This rule is authorized under ss. 196.02 (1) and (3), 196.06 (3), 196.17 (1), and 227.11, Stats.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the commission specific authority to promulgate rules. Section 196.06 (3) allows the commission to prescribe the manner and form in which utilities keep records. Section 196.17 (1) requires the commission to provide for meter testing.

Statute interpreted

This rule interprets ss. 196.03 (1) and 196.17.

Related statutes or rules

Sections PSC 113.0922, 113.0923, 134.31, 185.77, and 185.78 deal with customer-requested and commission-refereed tests. This rulemaking deals with how long to retain meters after such tests so that they are available should further tests be requested. Sections PSC 113.0614, 134.20, and 185.19 deal with the retention of records.

Brief summary of rule

This rule establishes retention periods for meter test records. It also ensures that meters remain available for a reasonable period of time for subsequent testing, if necessary, to resolve a customer dispute. Further, it ensures that referee-tested meters are retained long enough that they are available should further testing or review be needed. It also requires that meters being retired from service must either be tested or stored so that they are available should a customer or the commission request testing. Finally, the rule ensures that when meters are tested for other reasons, and the test results in either a back-billing or a credit, the meters are retained long enough that they are available should further testing or review be needed.

The proposed rule changes are slightly different for the water industry than those for the electric and gas industries, due to unique concerns about maintaining the integrity of the meters during storage. Specifically, water meters must be kept in a “wet” condition because a meter may test differently if the internal mechanism is allowed to dry out.¹ Like other industries, water utilities are given the option of testing all retired meters and disposing of those that are accurate, or retaining all meters. The options are provided to give individual utilities the flexibility to make the economic choice that makes sense for them: retaining all meters or testing all meters.

¹ Some members of the water industry have raised concerns that, even then, the meter may test differently since, for example, transporting the removed meter may dislodge accumulated scaling and silt.

Comparison with existing or proposed federal legislation

49 CFR 192 contains some records retention regulations for gas pipeline operators. 18 CFR 225 contains some gas records retention requirements. 18 CFR 125.3 contains some electric records retention regulations. They do not address the issue of meter retention.

Comparison with similar rules in surrounding states

This rulemaking was opened after the commission dealt with a number of situations in which a customer had requested an accuracy test of a meter, but then the meter was thrown away before a second, commission-refereed test could be requested and performed. The approach is to require that a meter be retained for a period of time after an initial test to ensure that it is available for a follow-up test, should one be requested. This rulemaking involves three types of utility service: gas, electric and water.

Although surrounding states anecdotally report at least some of the same problems experienced by this commission, none of them have rules that specify time periods for which meters must be retained. However, Iowa does advise utilities to keep meters until the time for an appeal has passed, especially if a referee test is performed. Further, when the Iowa Utilities Board issues orders granting waivers from meter testing requirements, it requires the utility to hold the meters for 120 days before disposing of them.

Retention periods for meter testing records vary among surrounding states, although the general format is the same. Records from an individual meter test must be retained for a period of time after the results are recorded in a history record that contains a wide variety of information about a particular meter, including all of the test results for that meter. That history record is retained for a longer period of time. The proposed rule requires utilities to retain an individual test record until it is recorded in the meter history record and the meter is tested again. The meter history record must be kept for the life of the meter, plus six years. Six years was chosen because it is the general statute of limitations for consumer issues. This retention period will help ensure that appropriate records remain available should an issue arise during that time.

Minnesota, Iowa and Illinois require that initial test records be kept for at least three years, while Michigan requires that they be kept for at least two years. In Minnesota, such records must be kept longer if necessary to permit compliance with commission rules. In Michigan, they must be kept longer if necessary to comply with rules regarding refunds on fast meters. In Illinois, meter history records need only be kept for three years. In Michigan and Minnesota, they must be kept for the life of the meter.

Effect on small business

The s. 227.114 (1), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since they are monopolies in their service territories, gas, electric and water utilities are dominant in their fields, and so, are not small businesses.

Initial Regulatory Flexibility Analysis

This rule will not affect small businesses. The s. 227.114 (12), Stats., definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since gas, electric and water utilities are monopolies in their service territories, they are dominant in their fields, and so, are not small businesses.

Fiscal Estimate

An Economic Impact Analysis is included.

Agency Contact Person

Questions regarding this rule should be directed to Docket Coordinator Joyce Mahan Dingman at (608) 267-6919, or via e-mail at joyce.dingman@wisconsin.gov. Small business questions may be directed to Anne Vandervort at (608) 266-5814, or via e-mail at anne.vandervort@wisconsin.gov. Media questions should be directed to Matt Pagel, Acting Communication Director, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the Commission's TTY number: if calling from Wisconsin, (800) 251-8345; if calling from outside Wisconsin, (608) 267-1479.

Text of Proposed Rule

SECTION 1. PSC 113.0614 is amended to read:

PSC 113.0614 Preservation of records. The A utility shall preserve the following records shall be preserved in a readable format and kept keep them available for inspection by the commission for the periods indicated. The list is not to be taken as comprehending a complete list of all types of utility records.

Description of Records	Period to be Retained
(1) Maps showing the location and physical characteristics of existing facilities	Perpetually
(2) Engineering records in connection with construction projects if construction of projects results wholly or in part	Until record is superseded or 6 years after plant is retired
Production Records:	
(3) Station and system generation records	Permanently
(4) All other records taken in the plant	6 years
Operating Records:	
(5) Load dispatcher data	6 years
(6) Interruption records	6 years
(7) Meter test records	See PSC 113.0919 <u>Until the information in the meter test record is entered in the meter history record and the meter is tested again</u>
<u>Note that if meter test records are being used as meter history records under PSC 113.0919 (2) (b), the meter test records must be preserved for the time period required for meter history records.</u>	
(8) Meter history records	Life of meter <u>plus 6 years</u>
(9) Annual meter accuracy summary	16 <u>6</u> years
(10) <u>Results of test made when a meter is retired</u>	<u>6 years</u>
(11) Voltmeter records	See PSC 113.0706 (5)
(12) All other records of operation	6 years
Equipment Records:	
(13) Must be placed in mortality study before destroying	Life of equipment
Customers' Records:	
(14) Inspection of customers' premises	6 years
(15) Customers' complaint record	6 years
(16) Meter reading sheets <u>records</u>	* years <u>6 years</u>
(17) Billing record	* years <u>6 years</u>
(18) Customer deposits	6 years after refund
(19) Filed rates and rules	Permanently

Note: See also “Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities” adopted by the commission in dockets 2-U-5005 and 2-U-5396, May 4, 1972, for more comprehensive listing of retention periods of specific records.

*Where machine billing is used and meter readings recorded on tabulating cards the register sheets may be considered the “meter reading sheets” and the “billing records.” “Meter reading sheets” and “billing records” or the “register sheets” shall be kept 6 years or until they are no longer needed to adjust bills. This means that the records must be kept 6 years or from the date of one meter test to the next whichever is longer.

SECTION 2. PSC 113.0919 (1) (title) is created to read:

PSC 113.0919 (1) (title) METER TEST RECORDS.

SECTION 3. PSC 113.0919 (1) is repealed and recreated to read:

PSC 113.0919 (1) A utility shall create a record of a test whenever a unit of metering equipment is tested. If the unit is tested again, the utility need not retain the previous test record once the information in that record has been entered in the meter history record. The meter test record shall include all of the following:

- (a) Information to identify the unit of metering equipment.
- (b) The location of the unit of metering equipment.
- (c) The equipment with which the unit of metering equipment is associated.
- (d) The date of the test.
- (e) The reason for the test.
- (f) A statement of “as found” accuracies.
- (g) A statement of “as left” accuracies, when applicable.
- (h) The name of the person making the test.
- (i) The readings before and after the test.
- (j) A statement as to whether or not the unit of metering equipment “creeps” and in case of creeping, all of the following:
 1. The rate.
 2. A statement of “as found” and “as left” accuracies sufficiently complete to permit checking of the calculations employed.
 3. Indications showing that all required checks have been made.
 4. A statement of repairs made, if any.
 5. Identification of the testing standard.

SECTION 4. PSC 113.0919 (2) (title) is created to read:

PSC 113.0919 (2) (title) METER HISTORY RECORDS.

SECTION 5. PSC 113.0919 (2) is repealed and recreated to read:

PSC 113.0919 (2) (a) Each utility shall keep a history record for each unit of metering equipment showing all of the following:

1. The date the unit was purchased.
2. The unit’s cost.
3. Information identifying the unit.
4. Equipment associated with the unit.
5. The unit’s essential name–plate data.
6. Dates of the last 2 tests.
7. Results of the last “as found” and “as left” tests, unless separate records are kept of each test for each unit.
8. Locations where the unit has been installed, with dates of installation and removal.

(b) If the information in par. (a) is kept in combination with the meter test record required by sub. (1) and meter test records are kept for the time period required for meter history records, a separate history record is not required.

SECTION 6. PSC 113.0919 (3) (title) and (4) (title) are created to read:

PSC 113.0919 (3) STATISTICAL SAMPLING SUMMARIES.

PSC 113.0919 (4) COMPUTERIZED METER RECORD SYSTEM.

SECTION 7. PSC 113.0921 (1) (e) and (f) are amended to read:

PSC 113.0921 (1) (e) A lot shall be deemed unacceptable and rejected for continued use if the total estimated percent defective (P) is greater than or equal to the appropriate maximum allowable percent defective (M) as determined from Table B–3, page 45 MIL–STD–414, following the procedure of par. (c) for both the full load and light load analysis test points at the respective designated Acceptable Quality Levels on any 2 annual sample testing analysis years within a five–year period for the lot or any meters in the lot. All meters in a rejected lot shall be provided with an appropriate test within a period of 48 months from the date of completion of the sample analysis and all the meters tested in the rejected lot shall be adjusted to the accuracies specified in s. PSC 113.0811 (1) (c). All meters in a rejected lot that will not be returned to service shall be removed within 48 months from the date of completion of the sample analysis. These meters may be retired without a test. Annual statistical sample testing shall be terminated during the period when all of the meters in a rejected lot are being provided with a test and, unless the meter must be retained under s. PSC 113.0922 (3), an accuracy adjustment.

(f) All meters in any lot may be tested and, unless the meter must be retained under s. PSC 113.0922 (3), adjusted for proper accuracy over a 48–month period at the discretion of the utility without a sample analysis determination specifying the lot test is necessary.

SECTION 8. PSC 113.0921 (1) (g) is repealed.

SECTION 9. PSC 113.0922 (title) is amended to read:

PSC 113.0922 (title) Customer request test and commission referee tests.

SECTION 10. PSC 113.0922 (1) (title) is created to read:

PSC 113.0922 (1) (title) CUSTOMER REQUEST TEST.

SECTION 11. PSC 113.0922 (3) is created to read:

PSC 113.0922 (3) METER RETENTION. (a) *After a customer requested test.* When a utility performs a customer requested test on a customer’s meter under sub. (1) or when the commission requests that a meter be tested, the utility shall keep the tested meter, in “as tested” condition, at a designated location on the utility’s premises for at least one full billing period plus 4 weeks after the test result report is issued so that the meter is available should another meter test be requested. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer’s premises for the designated time period rather than storing it at the utility’s premises.

(b) *After a referee test.* When a utility performs a referee test on a customer’s meter under sub. (2), the utility shall keep the tested meter, in “as tested” condition, at a designated location on the utility’s premises for at least 10 business days after the test result report is issued so that the meter is available should further testing or review be needed. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer’s premises for the designated time period rather than storing it at the utility’s premises.

(c) *When performing other tests.* When a utility tests a customer’s meter for a reason other than those in subs. (1) or

(2), and the test results in back billing or a credit, the utility shall keep the tested meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus 4 weeks after the back billing or credit is issued so that the meter is available should another meter test be requested. If a customer requests that the meter be retested, the utility shall keep the retested meter, in "as tested" condition, at a designated location on the utility's premises for at least 10 business days after the retest is completed and a written report about that test has been issued.

(d) *When a complaint or dispute occurs.* When a utility receives a complaint under s. PSC 113.0610 or is notified about a dispute under s. PSC 113.0407 involving a meter-related issue, the utility shall keep the meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the complaint or dispute and any appeal of that dispute is resolved so that the meter is available should testing be requested. If the meter was tested during the complaint or dispute process, and it tested as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(e) *When a meter is retired.* When a utility retires a meter from service and test results indicate that no back billing or credit is due a customer, the utility may dispose of the meter immediately. When a utility retires a meter from service without testing it, the utility shall keep the meter, in "as found" condition, at a designated location on the utility's premises for at least one full billing plus 4 weeks after it is retired so that the meter is available should a meter test be requested.

SECTION 12. PSC 113.0922 (6) is created to read:

PSC 113.0922 (6) RECORDS RETENTION REQUIREMENTS. A utility shall keep the complete, original record from any test under this section on file for the time period specified in s. PSC 113.0614.

SECTION 13. PSC 113.0923 and title are renumbered PSC 113.0922 (2) and (title).

SECTION 14. PSC 134.19 (1) (title) is created to read:

PSC 134.19 (1) (title) METER TEST RECORDS.

SECTION 15. PSC 134.19 (1) is repealed and recreated to read:

PSC 134.19 (1) (a) A utility shall create a record of a meter test whenever a meter is tested. If the meter is tested again, the utility need not retain the previous test record once the information in that record has been entered in the meter history record. The meter test record shall include all of the following:

1. Information identifying the meter.
2. The reason for making the test.
3. The reading of the meter before it was removed from service.
4. The accuracy of measurement.
5. All the data that was taken at the time of the test.

(b) The meter test record must be sufficiently complete to permit convenient checking of the methods and calculations that have been employed.

SECTION 16. PSC 134.19 (2) (title) is created to read:

PSC 134.19 (2) (title) METER HISTORY RECORDS.

SECTION 17. PSC 134.19 (2) is repealed and recreated to read:

PSC 134.19 (2) (a) The utility shall keep a meter history record which indicates all of the following:

1. The date the meter was purchased.
2. The meter's size.
3. Information identifying the meter.
4. The meter's various places of installation, with dates of installation and removal.
5. The dates and results of all tests.
6. The dates and details of all repairs.

(b) The record shall be arranged in such a way that the record for any meter can be readily located.

SECTION 18. PSC 134.19 (3) (title) is created to read:

PSC 134.19 (3) (title) METER ACCURACY SUMMARIES.

SECTION 19. PSC 134.20 is amended to read:

PSC 134.20 Preservation of records. ~~The A utility shall preserve the following records shall be preserved in a readable format and kept keep them~~ available for inspection by the commission for the periods indicated. The list is not to be taken as comprehending a complete list of all types of utility records.

Description of Record		Period to be Retained
(1)	Maps showing the location and physical characteristics of existing plant	Currently
(2)	Engineering records in connection with construction projects	Permanently
(3)	Supply records: Station and system supply records All other records taken in the plant	Permanently 6 years
(4)	Operating records: Load dispatcher data Interruption records Meter test <u>records</u>	6 years 6 years <u>See s. PSC 134.19 Until the information in the meter test record is entered in the meter history record and the meter is tested again</u> <u>plus 6 years</u>
	Meter history records	Life of meter
	Annual meter accuracy summary	<u>20 6</u> years
	Heating value records	6 years
	Pressure records	6 years
	Specific gravity records	6 years
	All other records of operation	6 years
(5)	Equipment record: Must be placed in mortality study before destroying	Life of equipment
(6)	Customers' records: Inspection of customers' equipment Complaint record Meter reading sheets or cards <u>records</u>	10 years 6 years <u>* years 6</u> <u>years</u>
	Billing record	<u>* years 6</u> <u>years</u>
	Customer deposits	6 years after refund
(7)	Filed rates and rules	Permanently

Note: See Federal Power Commission Orders 54 and 156 for preservation of records. Public Service Commission's Classification of Accounts, and s. 18.01, Stats.

* Where machine billing is used and meter readings recorded on tabulating cards, the register sheets may be considered the "meter reading sheets" and the "billing records." "Meter reading sheets" and "billing records" or the "register sheets" shall be kept 6 years or until they are no longer needed to adjust bills. This means that the records must be kept 6 years or from the date of one meter test to the next, whichever is longer.

SECTION 20. PSC 134.31 (3) is amended to read:

PSC 134.31 (3) All request and referee meter tests shall include an inspection of the meter index by removing the index from the meter body. The dials, gears and all other parts of the index shall be visually inspected for wear, misalignment or other mechanical defects which would affect the accuracy of the meter on a continuing or sporadic basis. Any defects affecting the meter's accuracy shall be noted and evaluated in the report of the test.

SECTION 21. PSC 134.31 (4) is created to read:

PSC 134.31 (4) METER RETENTION. (a) *After a customer requested test.* When a utility performs a customer-requested test on a customer's meter under sub. (1) or when the commission requests that a meter be tested, the utility shall keep the tested meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the test result report is issued so that the meter is available should another meter test be requested. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(b) *After a referee test.* When a utility performs a referee test on a customer's meter under sub. (2), the utility shall keep the tested meter, in "as tested" condition, at a designated location on the utility's premises for at least 10 business days after the test result report is issued so that the meter is available should further testing or review be needed. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(c) *When performing other tests.* When a utility tests a customer's meter for a reason other than those in sub (1) or (2), and the test results in back billing or a credit, the utility shall

keep the tested meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus 4 weeks after the back billing or credit is issued so that the meter is available should another meter test be requested. If a customer requests that the meter be retested, the utility shall keep the retested meter, in "as tested" condition, at a designated location on the utility's premises for at least 10 business days after the retest is completed and a written report about that test has been issued.

(d) *When a complaint or dispute occurs.* When a utility receives a complaint under s. PSC 134.17 or is notified about a dispute under s. PSC 134.064 involving a meter-related issue, the utility shall keep the meter, in "as tested" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the complaint or dispute and any appeal of that dispute is resolved so that the meter is available should testing be requested. If the meter was tested during the complaint or dispute process, and it tested as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(e) *When a meter is retired.* When a utility tests a meter for accuracy when retiring the meter from service and the test results indicate that no back bill or credit is due a customer, the utility may dispose of the meter immediately. When a utility retires a meter from service without testing it, the utility shall keep the meter, in "as found" condition, at a designated location on the utility's premises for at least one full billing period plus 4 weeks after it is retired so that the meter is available should a meter test be requested.

SECTION 22. PSC 134.31 (6) is created to read:

PSC 134.31 (6) RECORDS RETENTION REQUIREMENTS. A utility shall keep the complete, original record from any test under this section on file for the time period specified in s. PSC 134.20.

SECTION 23. PSC 185.19 (1) is amended to read:

PSC 185.19 (1) The A utility shall preserve the following records shall be preserved in a readable format and kept keep them available for inspection by the commission for the period indicated. The list is not to be taken as comprehending all types of utility records.

Description of Record	Period to be Retained
(a) Maps showing the location and physical characteristics of the utility plant	Until maps are superseded or 6 years after plant is retired, provided mortality data are retained
(b) Engineering and original cost records in connection with construction projects	Until records are superseded or 6 years after plant is retired, provided mortality data are retained. An exception is allowed when a utility maintains approved continuing property records; then, engineering and original cost records need only be preserved for a period of 6 years after construction is completed.
(c) Operating records	
1. Station pumpage records	15 years or 3 years after the source is abandoned, whichever is shorter
2. Interruption records	6 years
3. Meter test records	(See s. PSC 185.46) <u>Until the information in the meter test record is entered in the meter history record and the meter is tested again</u>
4. Meter history record ²	Life of meter <u>plus 6 years</u>
5. Annual meter accuracy summary	<u>10 6 years</u>

6. Pressure records	6 years
(d) Customer records:	
1. Complaint records	3 years
2. Customer deposit	6 years after refund
3. Meter reading sheets or cards records	** <u>6 years</u>
4. Billing record	** <u>6 years</u>
(e) Filed rates and rules	Permanently

* Where practicable shall be placed in mortality study before destroying.

** Where machine billing is used and meter readings recorded on tabulated cards, the register sheets may be considered to be "meter reading sheets" and the "billing records." Meter reading sheets and billing records or the register sheets shall be kept 6 years or until they are no longer needed to adjust bills. This means that the records shall be kept 6 years or from the date of one meter test to the next, whichever is longer.

Note: See also "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" adopted by the commission in docket 2-U-5005, April 27, 1981, for a more comprehensive listing of retention periods of specific records.

SECTION 24. PSC 185.46 (1) (title) is created to read:

PSC 185.46 (1) (title) METER TEST RECORDS.

SECTION 25. PSC 185.46 (1) is repealed and recreated to read:

PSC 185.46 (1) A utility shall create a record of a meter test whenever a meter is tested. If the meter is tested again, the utility need not retain the previous test record once the information in that record has been entered in the meter history record. The meter test record shall include all of the following:

- (a) Identification of the meter.
- (b) The meter's location.
- (c) The date of the test.
- (d) A statement of "as found" accuracies.
- (e) A statement of "as left" accuracies, when applicable.
- (f) The name of the person making the test.

SECTION 26. PSC 185.46 (2) (title) is created to read:

PSC 185.46 (2) (title) METER HISTORY RECORDS.

SECTION 27. PSC 185.46 (2) is repealed and recreated to read:

PSC 185.46 (2) Each utility shall keep a history record for each meter sufficient to fulfill the requirements of s. PSC 185.19, including all of the following:

- (a) The date the meter was placed into service.
- (b) The information in all of the meter's test records under sub. (1).
- (c) The date the meter was retired from service.

SECTION 28. PSC 185.73 (2) is amended to read:

PSC 185.73 (2) Meters shall be tested Except as provided in s. PSC 185.46, a utility shall test a meter "as found," or before repair (As Found) and, and, unless the meter must be retained under s. PSC 185.77 (3), "as left," or after repair (As Left). (See s. PSC 185.46 for exceptions.)

SECTION 29. PSC 185.73 (4) is amended to read:

PSC 185.73(4) Meters A meter not meeting the accuracy or other requirements of s. PSC 185.61 or 185.65 shall, unless the meter must be retained under s. PSC 185.77 (3), be repaired or rebuilt to meet those requirements before further use.

SECTION 30. A note following PSC 185.76 (6) is created to read:

PSC 185.76 (6) **Note:** But see PSC 185.77 (3) (d) that may require all retired meters to be tested.

SECTION 31. A note following PSC 185.761 (2) is created to read:

PSC 185.761 (2) **Note:** But see PSC 185.77 (3) (d) that may require all retired meters to be tested.

SECTION 32. PSC 185.77 (title) is amended to read:

PSC 185.77 Complaint Request and referee tests.

SECTION 33. PSC 185.77 is renumbered 185.77 (1) and amended to read:

PSC 185.77 (1) (title) REQUEST TESTS. Each utility shall promptly make an accuracy test without charge of any metering installation upon request of the customer if 24 months or more have elapsed since the last complaint customer requested test of the meter in the same location. If less than 24 months have elapsed, an amount equal to one-half the estimated cost of the meter test shall be advanced to the utility by the customer. Said The amount shall be refunded if the test shows the meter to be over or under registering by more than 2 percent %. A report giving the results of such the test shall be made to the customer and a complete original test record shall be kept on file in the office of the utility. Upon request, the test shall be made in the presence of the customer during normal business hours. (See also s. PSC 185.35, Adjustment of bills.)

SECTION 34. PSC 185.77 (3) is created to read:

PSC 185.77 (3) METER RETENTION. (a) *Definitions.* For purposes of this subsection, "as found" means retained, filled with water and capped without any other adjustments being made since the last test was performed.

(b) *After a customer requested test.* When a utility performs a customer requested test on a customer's meter under sub. (1) or when the commission requests that a meter be tested, the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least one full billing period plus four weeks after the test result report is issued so that the meter is available should another meter test be requested. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(b) *After a referee test.* When a utility or third party retests a customer's meter under sub. (2), the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least 10 business days after the test result report is issued so that the meter is available should further testing or review be needed. If the meter tests as accurate, the utility may choose to keep the tested meter installed at the customer's premises for the designated time period rather than storing it at the utility's premises.

(c) *When performing other tests.* When a utility tests a customer's meter for a reason other than those in sub. (1) or (2) and the test results in a back bill or a credit, the utility shall keep the tested meter, in "as found" condition, at a designated location on the utility's premises for at least one full billing

period plus four weeks after the back bill or credit is issued so that the meter is available should another meter test be requested. If a customer requests that the meter be retested, the utility shall keep the retested meter, in “as found” condition, at a designated location on the utility’s premises for at least 10 business days after the retest is completed and a written report about that test has been issued.

(d) *When a complaint or dispute occurs.* When a utility receives a complaint under s. PSC 185.42 or is notified about a dispute under s. PSC 185.39 involving a meter-related issue, the utility shall keep the meter, in “as tested” condition, at a designated location on the utility’s premises for at least one full billing period plus four weeks after the complaint or dispute and any appeal of that dispute is resolved so that the meter is available should testing be requested. If the meter was tested during the complaint or dispute process, and it tested as accurate, the utility may choose to keep the tested meter installed at the customer’s premises for the designated

time period rather than storing it at the utility’s premises.

(e) *When a meter is retired.* When a utility retires a meter from service and test results indicate that no back bill or credit is due a customer, the utility may dispose of the meter immediately. When a utility retires a meter from service without testing it, the utility shall keep the meter, in “as found” condition, at a designated location on the utility’s premises for at least one full billing cycle plus 4 weeks after the date on which the meter is retired so that the meter is available should another meter test be requested.

SECTION 35. PSC 185.77 (5) is created to read:

PSC 185.77 (5) RECORD RETENTION REQUIREMENTS. A utility shall keep the complete, original record from any test under this section on file for the time period specified in s. PSC 185.19.

SECTION 36. PSC 185.78 and (title) are renumbered 185.77 (2) and (title).

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

PSC 113 Service Rules for Electric Utilities
PSC 134 Standards for Gas Service
PSC 185 Standards for Water Public Utility Service

3. Subject

Retention of electric/gas/water meters after being tested due to a customer’s request or after a commission–refereed test. Retention of meter testing records.

4. Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency’s Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State’s Economy ☒ Specific Businesses/Sectors
☐ Local Government Units ☒ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

The commission has encountered several situations where meters were no longer available when initial or additional accuracy testing was requested. This rule ensures that meters initially tested for accuracy because of a customer’s request are retained long enough that they are available for commission–referee testing. Further, it ensures that referee–tested meters are retained long enough for a customer to request an outside test. It also ensures that when meters are tested for other reasons and the test results in either a back–billing or a credit, the meters are retained long enough that they are available for referee testing. Finally, it establishes consistent retention periods for meter test records.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

All electric, gas and water utilities; Wisconsin Utilities Association; utility workers associations; Wisconsin Federation of Independent Business; Wisconsin Manufacturers and Commerce; Citizens Utility Board, League of Wisconsin Municipalities; Wisconsin Towns Association; Wisconsin Alliance of Cities; IBEW; Municipal Electric Utilities of Wisconsin; Wisconsin Rural Water Association; Wisconsin Water Association.

11. Identify the local governmental units that participated in the development of this EIA.

Municipalities with municipal gas, electric and/or water utilities and members of the League of Wisconsin Municipalities, Wisconsin Towns Association, and Wisconsin Alliance of Cities.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

In its comments the Wisconsin Utilities Association stated that while there may be costs to individual utilities, "the proposed rules will not adversely affect in any material way, the economy, a sector of the economy, productivity, jobs, or the competitiveness of this state." The water division of the Municipal Environmental Group stated that the requirement to test or retain meters could result in a significant economic impact, especially for a large utility undertaking a comprehensive meter replacement program. No specific financial impact figures were provided. Language changes were made to address this concern. Further, there is a provision that allows a utility to ask for a "waiver" in exceptional circumstances. A utility doing a comprehensive meter replacement could file such a petition.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Implementing this rule will help ensure that meter accuracy is adequately confirmed and will help ensure that billing for utility service is accurate. It should help prevent lingering questions and uncertainty about meter accuracy. Alternatives to implementing this rule are to not implement it or to adopt different retention periods. However, these retention periods were chosen so that customers will have the opportunity to receive another bill before deciding whether to request additional testing.

14. Long Range Implications of Implementing the Rule

This rule will ensure that meters remain available long enough for testing to be requested. This will help ensure that meter accuracy is adequately confirmed and will help ensure that billing for utility service is accurate. It should help prevent lingering questions and uncertainty about meter accuracy.

15. Compare With Approaches Being Used by Federal Government

There are no federal laws on this issue.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Although surrounding states anecdotally report at least some of the same problems experienced by this commission, none of them have rules that specify time periods for which meters must be retained. However, Iowa does advise utilities to keep meters until the time for an appeal has passed, especially if a referee test is performed. Further, when the Iowa Utilities Board issues orders granting waivers from meter testing requirements, it requires the utility to hold the meters for 120 days before disposing of them.

Retention periods for meter testing records vary among surrounding states, although the general format is the same. Records from an individual meter test must be retained for a period of time after the results are recorded in a history record that contains a wide variety of information about a particular meter, including all of the test results for that meter. That history record is retained for a longer period of time. The proposed rule requires utilities to retain an individual test record until it is recorded in the meter history record and the meter is tested again. The meter history record must be kept for the life of the meter, plus 6 years. Six years was chosen because it is the general statute of limitations for consumer issues.

Minnesota, Iowa and Illinois require that initial test records be kept for at least three years, while Michigan requires that they be kept for at least two years. In Minnesota, such records must be kept longer if necessary to permit compliance with commission rules. In Michigan, they must be kept longer, if necessary, to comply with rules regarding refunds on fast meters. In Illinois, meter history records need only be kept for three years. In Michigan and Minnesota, they must be kept for the life of the meter.

17. Contact Name

Lisa Farrell

18. Contact Phone Number

608-267-9086

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearing

Safety and Professional Services

Professional Services, Chs. 1—299

CR 13-030

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Safety and Professional Services in ss. 227.11 (2) (a) and 440.03 (7m), Wis. Stats., interpreting s. 440.08 (2) (a) 38g., Wis. Stats., the Department will hold a public hearing at the time and place indicated below to consider an order to amend s. SPS 132.05, relating to the biennial renewal dates of home inspectors.

Hearing Information

Date: Monday, June 3, 2013
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
Room 121
Madison, WI

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

Place where Comments Are to be Submitted and Deadline for Submission

Comments may be submitted to Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received (at or before the public hearing to be held on June 3, 2013, to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, by email at Shancethea.L Leatherwood@wisconsin.gov or on our website at <http://dsps.wi.gov/Default.aspx?Page=44e541e8-abdd-49da-8fde-046713617e9e>.

Analysis Prepared by the Department of Safety and Professional Services

Statutes interpreted

Section 440.08 (2) (a) 38g., Stats.

Statutory authority

Sections 227.11 (2) (a) and 440.03 (7m), Stats.

Explanation of agency authority

The Department is empowered to promulgate rules interpreting the provision of any statute it enforces or

administers pursuant to s. 227.11 (2) (a), Stats. The Department is further authorized by s. 440.03 (7m), Stats., to establish rules regarding credential renewal. Section 440.08 (2) 38g., Stats., is administered by the Department and sets forth the renewal period and fee for home inspectors. Therefore the Department is authorized both generally and specifically to promulgate these proposed rules.

Related statute or rule

None.

Plain language analysis

The sole purpose of this proposed rule is to correct an inconsistency regarding the renewal date for home inspectors. Currently, Wis. Admin. Code s. SPS 132.05 (1) states the renewal date for home inspectors is January 1, of each odd-numbered year. Section 440.08 (2) 38g., Stats., states that the renewal date is December 15 of each even-numbered year. The statute is controlling. Therefore, the proposed rule seeks to correct Wis. Admin. Code s. SPS 132.05 (1) to reflect the correct date. There are no new policies proposed by the rule.

Summary of, and comparison with, existing or proposed federal regulation

None.

Comparison with rules in adjacent states

Illinois: Home inspectors in Illinois may renew their license for a period of 2 years following the expiration date of their original license. 68 Ill. Adm. Code 1410.140 (2012).

Iowa: An internet search revealed no statutes or regulations regarding home inspectors in Iowa.

Michigan: There are no specific renewal dates for home inspectors in Michigan.

Minnesota: An internet search revealed no statutes or regulations regarding home inspectors in Minnesota.

Summary of factual data and analytical methodologies

None.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

This rule will not have any effect on small businesses as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@wisconsin.gov or by calling (608) 266-8608.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Initial Regulatory Flexibility Analysis or Summary

None.

Environmental Assessment/Statement

None.

Agency Contact Person

Shancethea Leatherwood, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

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ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

165-SPS 132.05

3. Subject

Home Inspector Biennial registration

4. Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☐ Indeterminate ☐ Decrease Existing Revenues ☒ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy ☐ Specific Businesses/Sectors
☐ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

The proposed rule seeks to correct the biennial renewal date currently within s. SPS 132.05 (1) by substituting January 1 of each odd numbered year with December 15 of each even -numbered year.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

This proposed rule was posted on the Department of Safety and Professional Services website and on the Wisconsin government website for 14 business days to solicit comments from the public. No businesses, business sectors, associations representing business, local governmental units, or individuals contacted the department about the proposed rule during that time period.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule will have no economic or fiscal impact on specific business, business sectors, public utility rate payers, local government units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefit of implementing the rule is providing the correct information regarding the home inspector biennial registration date in a manner in which licensees may find the information with ease.

14. Long Range Implications of Implementing the Rule

Correctly stating information regarding home inspector biennial renewal date.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Home inspectors in Illinois may renew their license for a period of 2 years following the expiration date of their original license. 68 Ill. Adm. Code 1410.140 (2012).

Iowa: An internet search revealed no statutes or regulations regarding home inspectors in Iowa.

Michigan: There are no specific renewal dates for home inspectors in Michigan.

Minnesota: An internet search revealed no statutes or regulations regarding home inspectors in Minnesota.

17. Contact Name

Shawn Leatherwood

18. Contact Phone Number

608–261–4438

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearing

**Safety and Professional Services —
Veterinary Examining Board**

CR 13–031

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Veterinary Examining Board in ss. 15.08 (5) (b), 227.11 (2) (a) and 453.03 (1), Wis. Stats., and interpreting s. 453.03 (1), Wis. Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal ss. VE 1.02 (9) and 7.02 (3) (d); to renumber s. VE 1.02 (10m), (11), and (11m); renumber and amend s. VE 1.02 (10); to amend ss. VE 1.02 (3), 7.01 (1), 7.02 (3) (a), (4) (c), (8) (c), and 7.03 (1); to repeal and recreate s. VE 7.03 (2) and (3); and to create ss. VE 1.02 (3m), 7.03 (4), 7.06 (24), (25), and (26), and 9.05 (13), relating to standards of practice and unprofessional conduct of veterinarians and certified veterinary technicians.

Hearing Information

Date: Wednesday, May 29, 2013
Time: 10:30 a.m.
Location: 1400 East Washington Avenue
 Room 121A
 Madison, WI

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

**Place where Comments are to be Submitted and
Deadline for Submission**

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy and Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708–8935, or by email to Shancethea.L Leatherwood@wisconsin.gov.

Comments must be received at or before the public hearing to be held on May 29, 2013 to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Shancethea.L Leatherwood@wisconsin.gov.

**Analysis Prepared by the Department of Safety and
Professional Services**

Statutes interpreted

Section 453.03 (1), Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) (a), and 453.03 (1), Stats.

Explanation of agency authority

Examining boards are generally authorized by ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., to promulgate rules for their own guidance and for guidance within the profession and to promulgate rules interpreting any statute enforced or administered by it. Section 453.03 (1), Stats., specifically authorizes the Veterinary Examining Board to draft rules relating to current practice within the profession. Therefore, the Veterinary Examining Board is authorized both generally and specifically to draft these rules.

Related statute or rule

Wisconsin Admin. Code section VE 1.02 and Chapters VE 7, 8, and 9

Plain language analysis

The Veterinary Examining Board is mandated by s. 453.03 (1), Stats., to review its rules once every 5 years for the purpose of bringing the rules into conformity with current practices within the Veterinarian profession. In so doing, the Board has taken this opportunity to draft provisions covering various topics in its rules. The topics include defining terms such as surgery and advertising, and delineating the information that should be in a patient's records. With regard to patient records the proposed rule specifically proposes to amend ss. VE 7.03 (1), (2), and (3) to reflect items required in the patient records for small animals, farm animals, and equine patients. The proposed rule also gives consideration

to advertising as a specialist when one is not properly credentialed to do so.

Summary of, and comparison with, existing or proposed federal regulation

None.

Comparison with rules in adjacent states

Illinois:

Veterinary professionals that fail to maintain medical records in Illinois violate the Standards of Professional Conduct ILL. Admin. Code tit. 68 §1500.50 Medical records may include, but are not limited to: patient identification information, client identification information, dated reason for visit and pertinent history, physical exam findings, and diagnostic, medical, surgical or therapeutic procedures performed. Medical records must be kept for a minimum of 5 years from the last contact with the patient.

Iowa:

Iowa's statutes and administrative rules are silent as to the requirements for medical records.

Michigan:

Michigan requires medical records must be maintained for a minimum of 3 years from the date of the last veterinarian service. Records may be maintained in written, electronic, audio or photographic format. Mich. Admin. Code r. 338.4921 The required information in the medical records includes, but is not limited to, the following: identification of the species of the patient, date of the last veterinary service, name, address, and telephone number of the client, vaccination history if known, and results of the physical examination. Michigan statutes and administrative rules are silent on advertising requirements for Veterinary professionals.

Minnesota:

Minnesota Veterinarians may generate either a written or computer record which details the name, address, and

telephone number of the owner, identity of the animals, including age, sex, and breed, date of examination or treatment and surgery, a brief history of the condition of each animal, herd, or flock, examination findings, laboratory and radiographic reports, tentative diagnosis, treatment plan, and medication and treatment. Records must be kept for 3 years after the last visit. MINN. r. 9100.08000 subp. 4

Summary of factual data and analytical methodologies

The Veterinary Examining Board ensures the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

The rule was posted on the Department of Safety and Professional Service's website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Initial Regulatory Flexibility Analysis or Summary

None.

Environmental Assessment/Statement

None.

Agency Contact Person

Shawn Leatherwood Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

VE 1.02, 7, 8, 9

3. Subject

Standards of practice and unprofessional conduct of veterinarians and veterinarian technicians

4. Fund Sources Affected

☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.165 (1) (g)

6. Fiscal Effect of Implementing the Rule

☐ No Fiscal Effect ☐ Increase Existing Revenues
☐ Indeterminate ☐ Decrease Existing Revenues

☐ Increase Costs
☒ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

- ☐ State's Economy
 ☐ Specific Businesses/Sectors
☐ Local Government Units
 ☐ Public Utility Rate Payers
☐ Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

This rule does not present a policy problem. The goal of the proposed rule is to modernize outdated provisions in the Veterinary Examining Board's administrative code in order to create consistency between the code as it now exists and current veterinary practice. The proposed rule accomplishes this goal by (1) defining specific terms such as client and surgery, (2) clarifying provisions regarding unprofessional conduct, and (3) enumerating the information that must be contained in individual patient's medical records in s. VE7.03 (2) and VE 7.03 (3).

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule will primarily affect licensed veterinarians and licensed veterinary technicians. The rule was posted on the Department of Safety and Professional Service's website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.

11. Identify the local governmental units that participated in the development of this EIA.

No local governmental units participated in the development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This proposed will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The main benefit of implementing the proposed rule is to bring relevant Wis. Admin .Code into conformity with current practice within the profession.

14. Long Range Implications of Implementing the Rule

This rule will provide greater guidance to licensed veterinarians and licensed veterinary technicians in maintaining the ethical standards within their profession.

15. Compare With Approaches Being Used by Federal Government

N/A

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois:

Veterinary professionals that fail to maintain medical records in Illinois violate the Standards of Professional Conduct ILL. Admin. Code tit. 68 §1500.50. Medical records may include, but are not limited to: patient identification information, client identification information, dated reason for visit and pertinent history, physical exam findings, and diagnostic, medical, surgical or therapeutic procedures performed. Medical records must be kept for a minimum of 5 years from the last contact with the patient.

Iowa:

Iowa's statutes and administrative rules are silent as to the requirements for medical records.

Michigan:

Michigan requires medical records must be maintained for a minimum of 3 years from the date of the last veterinarian service. Records may be maintained in written, electronic, audio or photographic format. Mich. Admin. Code r. 338.4921. The required information in the medical records includes, but is not limited to, the following: identification of the species of the patient, date of the last veterinary service, name, address, and telephone number of the client, vaccination history if known, and results of the physical examination.

Minnesota:

Minnesota Veterinarians may generate either a written or computer record which details the name, address, and telephone number of the owner, identity of the animals, including age, sex, and breed, date of examination or treatment and surgery, a brief history of the condition of each animal, herd, or flock, examination findings, laboratory and radiographic reports, tentative diagnosis, treatment plan, and medication and treatment. Records must be kept for 3 years after the last visit. MINN. r. 9100.08000 subp. 4

17. Contact Name
Shawn Leatherwood

18. Contact Phone Number
608-261-4438

This document can be made available in alternate formats to individuals with disabilities upon request.

Notice of Hearing

**Safety and Professional Services —
Veterinary Examining Board**

CR 13-032

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Veterinary Examining Board in ss. 15.08 (5) (b), 227.11 (2) (a), and 453.03 (1), Wis. Stats., and interpreting s. 453.03 (1), Wis. Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal ss. VE 2.04 and 3.05(1) (a); to renumber s. VE 5.03 (1) (e); to renumber and amend s. VE 3.05 (1) (b); to amend ss. VE 3.01 (2), 3.05 (5), and 4.01 (2) (a) and (3); and to create s. VE 5.03 (1) (b), relating to licensure, temporary permits, and examinations.

Hearing Information

Date: Wednesday, May 29, 2013
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
Room 121
Madison, WI

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Safety and Professional Services, Division of Policy Development, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received at or before the public hearing to be included in the record of rule-making proceedings.

**Place where Comments are to be Submitted and
Deadline for Submission**

Comments may be submitted to Shawn Leatherwood Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, WI 53708-8935, or by email to Shancethea.L Leatherwood@wisconsin.gov. Comments must be received at or before the public hearing to be held on May 29, 2013 to be included in the record of rule-making proceedings.

Copies of Rule

Copies of this proposed rule are available upon request to Shawn Leatherwood Department of Safety and Professional Services, Division of Board Services, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708, or by email at Shancethea.L Leatherwood@wisconsin.gov.

**Analysis Prepared by the Department of Safety and
Professional Services**

Statutes interpreted

Section 453.03 (1), Stats.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) (a), and 453.03 (1), Stats.

Explanation of agency authority

Examining boards are generally authorized by ss. 15.08 (5) (b), and 227.11 (2) (a), Stats., to promulgate rules for its own guidance and for guidance within the profession and to promulgate rules interpreting any statute enforced or administered by it. Section 453.03 (1), Stats. specifically authorizes the Veterinary Examining Board to draft rules, "relating to licensure qualification, denial of a license, certificate or temporary permit, unprofessional conduct and disciplinary proceedings." Therefore the Veterinary Examining Board is authorized both generally and specifically to draft these rules.

Related statute or rule

Wisconsin Admin. Code chapters VE 2, 3, 4, 5, and 6.

Plain language analysis

This proposed rule draft addresses several problems. First, the proposed rule eliminates the provision that allows applicants who failed their examination to review the exam. Now that the test is administered electronically, an applicant may retake the test at any time. Since the exam may be taken more frequently, it is not feasible for the Department to provide the materials for the review process. Second, the proposed rule would remove an outdated reference to November 1st in s. VE 3.05 (1). Third, the rule will adjust the hours necessary to qualify for licensure by endorsement allowing greater access to veterinarians who wish to practice in Wisconsin. Fourth, the proposed rule updates language concerning temporary permits. Lastly, the proposed rule will add a provision requiring applicants for post graduate training permits to submit evidence that he or she has received a degree from a school of veterinary medicine or its equivalent.

Summary of, and comparison with, existing or proposed federal regulation

None

Comparison with rules in adjacent states:

Illinois: Illinois repealed its regulations regarding temporary permits. Applicants seeking licensure by endorsement must certify from the licensing authority in each jurisdictions in which the applicant has ever been licensed or is currently licensed: (1) the time during which the applicant was licensed, (2) whether the file on the applicant contains any record of disciplinary actions taken or pending and (3) a brief description of the examination and the grades received. Applicants must also certify that they have graduated from an approved program of veterinary medicine and surgery ILL Admin. Code tit.68 Title §1500.30 (2012)

Iowa: A temporary educational permit is issued to applicants that are currently in an internship or residency training program at Iowa State University College of Veterinary . Iowa Admin. Code r. 811-9.1 (169) (2012). Iowa also issues a temporary in-state practice permit to, “a person who has (1) graduated from an AVMA-accredited or AVMA-listed school of veterinary medicine or has received an ECFVG or PAVE certificate. [and] (2) Is licensed in good standing in another jurisdiction.” Iowa Admin. Code r.811-9.1 (2) (2012)

A license by endorsement is issued in Iowa if the applicant: “(a) has graduated from an accredited college of veterinary medicine or has received a certificate from the educational commission for foreign veterinary graduates at least five years prior to application, (b) Has actively practiced for a least two thousand hours during the five years preceding application, (c) has not previously failed and not subsequently passed a veterinary licensing examination in [Iowa], (d) holds a current license to practice veterinary medicine in another state or United States territory or province of Canada, [and] (e) is not subject to license investigation, suspension, or revocation in any state, United States territory or province of Canada.” Iowa Code § 169.10 (2013).

Michigan: The Michigan Board of Veterinary Medicine issues a license by endorsement to persons who have, “graduated from a board-approved veterinary college or obtained a certificate or obtained a certificate from the educational commission for foreign veterinary graduates of the American veterinary medical association.” Mich. Admn. Code r.338.4906 (2012). An internet search of Michigan laws did not reveal any provisions regarding temporary permits.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

Minnesota: Minnesota may issue without examination a temporary permit to practice veterinary medicine to a person, “who has submitted an application approved by the board for license pending examination, and holds a doctor of veterinary medicine degree or an equivalent degree from an approved or accredited college of veterinary medicine or an ECFVG or PAVE certification. The temporary permit shall expire the day after publication of the notice of results of the first examination given after the permit is issued. No temporary permit may be issued to any applicant who has previously failed the national examination and is currently not licensed in any licensing jurisdiction of the United States or Canada or to any person whose license has been revoked or suspended or who is currently subject to a disciplinary order in any licensing jurisdiction of the United States or Canada.” MINN. STAT. §156.073. An internet search of Minnesota statutes and rules did not reveal any provisions regarding license by endorsement.

Summary of factual data and analytical methodologies

The Veterinary Examining Board ensures that the accuracy, integrity, objectivity and consistency of data were used in preparing the proposed rule and related analysis.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis

The rule was posted on the Department of Safety and Professional Service’s website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Initial Regulatory Flexibility Analysis or Summary

None.

Environmental Assessment/Statement [if required]

None.

Agency Contact Person

Shawn Leatherwood Department of Safety and Professional Services, Division of Policy and Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone (608) 261-4438; email at Shancethea.L Leatherwood@wisconsin.gov.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

VE 2, 3, 4, 5, 6

3. Subject

Licensure, temporary permits and examinations

<p>4. Fund Sources Affected</p> <p><input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>5. Chapter 20, Stats. Appropriations Affected</p> <p>20.165 (1) (g)</p>
<p>6. Fiscal Effect of Implementing the Rule</p> <p> <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget <input type="checkbox"/> Decrease Cost </p>	
<p>7. The Rule Will Impact the Following (Check All That Apply)</p> <p> <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses (if checked, complete Attachment A) </p>	
<p>8. Would Implementation and Compliance Costs Be Greater Than \$20 million?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>9. Policy Problem Addressed by the Rule</p> <p>This proposed rule draft addresses several problems. First, the proposed rule eliminates the provision that allows applicants who failed their examination to review the exam. Now that the test is administered electronically, an applicant may retake the test at any time. Since the exam may be taken more frequently, it is not feasible for the Department to provide the materials for the review process. Second, the proposed rule would remove an outdated reference to November 1, 2000, in s. VE 3.05 (1) (b). Third, the rule will adjust the hours necessary to qualify for licensure by endorsement allowing greater access to veterinarians who wish to practice in Wisconsin. Fourth, the proposed rule updates language concerning temporary permits. Fifth, a provision has been added that allows applicants a 10 month window between the time they graduated from school and the applicant's examination period for the North American Licensing Veterinary Examination. Lastly, the proposed rule will add a provision requiring applicants for post graduate training permits to submit evidence that he or she has received a degree from a school of veterinary medicine or its equivalent.</p>	
<p>10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.</p> <p>The proposed rule will primarily affect licensed veterinarians and licensed veterinary technicians. The rule was posted on the Department of Safety and Professional Service's website for 14 days in order to solicit comments from the public regarding the rule. No comments were received from the public regarding the rule.</p>	
<p>11. Identify the local governmental units that participated in the development of this EIA.</p> <p>No local governmental units participated in the development of this EIA.</p>	
<p>12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)</p> <p>The proposed rule will not have an economic or fiscal impact on specific businesses, business sectors, public utility rate payers, local governmental units or the state's economy as a whole.</p>	
<p>13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule</p> <p>The main benefit of this rule is to allow greater access for veterinary applicants to obtain temporary permits.</p>	
<p>14. Long Range Implications of Implementing the Rule</p> <p>Providing greater guidance to veterinarians and veterinary technicians in maintaining standards within their profession.</p>	
<p>15. Compare With Approaches Being Used by Federal Government</p> <p>N/A</p>	

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois repealed its regulations regarding temporary permits. Applicants seeking licensure by endorsement must certify from the licensing authority in each jurisdictions in which the applicant has ever been licensed or is currently licensed: (1) the time during which the applicant was licensed, (2) whether the file on the applicant contains any record of disciplinary actions taken or pending and (3) a brief description of the examination and the grades received. Applicants must also certify that they have graduated from an approved program of veterinary medicine and surgery. ILL Admin. Code tit.68 Title §1500.30 (2012)

Iowa: A temporary educational permit is issued to applicants that are currently in an internship or residency training program at Iowa State University College of Veterinary Medicine. Iowa Admin. Code r. 811–9.1(1) (169) (2012). Iowa also issues a temporary in–state practice permit to, “a person who has (1) graduated from an AVMA–accredited or AVMA–listed school of veterinary medicine or has received an ECFVG or PAVE certificate. [and] (2) Is licensed in good standing in another jurisdiction.” Iowa Admin. Code r.811–9.1 (2) (2012).

Michigan: The Michigan Board of Veterinary Medicine issues a license by endorsement to persons who have, “graduated from a board–approved veterinary college or obtained a certificate or obtained a certificate from the educational commission for foreign veterinary graduates of the American veterinary medical association.” Mich. Admn. Code r.338.4906 (2012). An internet search of Michigan laws did not reveal any provisions regarding temporary permits.

Minnesota: Minnesota may issue, without examination, a temporary permit to practice veterinary medicine to a person, “who has submitted an application approved by the board for license pending examination, and holds a doctor of veterinary medicine degree or an equivalent degree from an approved or accredited college of veterinary medicine or an ECFVG or PAVE certification. The temporary permit shall expire the day after publication of the notice of results of the first examination given after the permit is issued. No temporary permit may be issued to any applicant who has previously failed the national examination and is currently not licensed in any licensing jurisdiction of the United States or Canada or to any person whose license has been revoked or suspended or who is currently subject to a disciplinary order in any licensing jurisdiction of the United States or Canada.” MINN. STAT. §156.073. An internet search of Minnesota statutes and rules did not reveal any provisions regarding licensure by endorsement

17. Contact Name
Shawn Leatherwood

18. Contact Phone Number
608–261–4438

This document can be made available in alternate formats to individuals with disabilities upon request.

Submittal of Proposed Rules to Legislature

Please check the Bulletin of Proceedings — Administrative Rules for further information on a particular rule.

Children and Families

Early Care and Education, Chs. 201—252

CR 12-048

On April 29, 2013, the Department of Children and Families submitted proposed rules for review by legislative committees pursuant to s. 227.19, Stats. The rules revise ch. DCF 201, relating to the circumstances for a waiver to allow child care subsidy payments for a parent who is a child care provider.

These rules were approved by the Governor on April 29, 2013.

This rule was approved by the governor on April 15, 2013.

Revenue

CR 13-012

On April 23, 2013, the Department of Revenue submitted final draft rules to the presiding office of each house of the legislature. The proposed rule revises chs. Tax 1, 2, and 11, relating to general provisions of income taxation and sales and use tax.

This rule was approved by the governor on April 15, 2013.

Natural Resources

Fish, Game, etc., Chs. 1—

CR 13-001

(DNR # FH-19-12)

Pursuant to s. 227.19, Stats., on April 18, 2013, the Department of Natural Resources submitted final draft rules to the presiding officer of each house of the legislature. The rules revise chs. NR 19 to 23, 25, and 26, relating to DNR fisheries housekeeping changes.

The scope statement for this rule, SS 058-12, was approved by the Governor on July 25, 2012, published in Register No. 680, on August 15, 2012, and approved by the Natural Resources Board as required by s. 227.135 (2), Stats., on March 27, 2013.

On April 23, 2013, the Department of Revenue submitted final draft rules to the presiding office of each house of the legislature. The proposed rule revises chs. Tax 4, 8, and 9, relating to general provisions of excise taxation and enforcement.

This rule was approved by the governor on April 15, 2013.

Revenue

CR 13-013

Safety and Professional Services — Marriage and Family Therapy, Counseling and Social Worker Examining Board

CR 13-009

On April 23, 2013, a rule-making order was submitted to the Chief Clerks of the Senate and the Assembly for referral to appropriate standing committees for review under s. 227.19, Stats. The proposed rule repeals and recreates ss. MPSW 10.01 (6) and 14.01, relating to professional counselor education.

This rule is not subject to s. 227.185, Stats. The statement of scope for this rule, published in Register No. 654, on July 1, 2010, was sent to the LRB prior to June 8, 2011 (the effective date of 2011 Wis. Act 21).

Revenue

CR 13-011

On April 23, 2013, the Department of Revenue submitted final draft rules to the presiding office of each house of the legislature. The proposed rule revises ch. Tax 11, relating to sales and use tax provisions concerning advertising and promotional direct mail and prosthetic devices.

Public Notices

Department of Children and Families

Child Care Development Fund Plan

Public Hearing: On Tuesday, June 4, 2013, from 1:00 to 4:00 PM, the Wisconsin Department of Children and Families (DCF), will hold a public hearing on Wisconsin's plan for providing child care services under the 2013–2015 Child Care and Development Fund (CCDF) Draft Plan. The public hearing will take place in Conference Room D203 at the GEF 1 State Office Building, 201 East Washington Avenue, Madison, WI 53703. Visitors to GEF 1 must use the main entrance at 201 East Washington Avenue and register at the customer service desk in the lobby.

Background: The purpose of the public hearing is to solicit verbal or written comments from the public on Wisconsin's proposed plan for the use of federal CCDF dollars for the period of 10/01/13 through 09/30/15.

Every two years, DCF must submit a plan to the Administration for Children and Families for the use of CCDF funds over the next two years. This is an important source of funding for financing child care subsidy in Wisconsin and related programs as well as quality improvement initiatives in early care and education. Broadly speaking, the purpose of CCDF is to:

- Help low income families through offsetting the costs of child care when they are working or preparing for work;
- Support child care for participants in the Wisconsin Works (W-2) program;
- Support ongoing fraud detection efforts; and,
- To provide support that improves the quality of child care programs and services.

In the area of improving quality, funding is used to pay for the YoungStar Quality Rating Improvement System, scholarships and support for child care workers, licensing staff, to support child care resource and referral services, and to support technical assistance for child care providers. In Wisconsin, the legislative process provides direction and decisions for the use of this fund, and the DCF/Division of Early Care and Education (DECE) is responsible for its administration.

Opportunity for Public Comment: Interested parties can access the 2013–2015 CCDF Draft Plan on the Department of Children and Families Child Care web page under the heading, "Other Child Care Resources," at <http://dcf.wisconsin.gov/childcare/default.htm>.

Individuals who plan to testify about the CCDF Draft Plan on June 4, 2013, should submit a copy of the text of their comments to ensure clarity in the recording of comments. Staff will also receive other written comments at the hearing or through the mail for inclusion in the public comment summary document. Written comments will receive equal consideration to the testimony given at the hearing.

Contact Person: Please send your comments about the 2013–2015 CCDF Draft Plan or any questions about the web page location to Jane Penner-Hoppe by e-mail at jane.pennerhoppe@wisconsin.gov or contact her at: Division of Early Care and Education, Department of Children and Families, PO Box 8916, Madison, WI 53708–8916, 608.261–6725. All comments must be received no later than 6/5/13. If you have specific accommodation requests for the public hearing, please contact Jane Penner-Hoppe by May 29, 2013.

Department of Health Services

Medical Assistance Reimbursement to Hospitals Pay for Performance Payment Plan for Hospital Assessment

The State of Wisconsin reimburses hospitals for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and Chapter 49 of the Wisconsin State Statutes. This program, administered by the State's Department of Health Services (Department), is called Medicaid or Medical Assistance. In addition, Wisconsin has expanded this program to create BadgerCare and BadgerCare Plus programs under the authority of Title XIX and Title XXI of the Social Security Act and ss. 49.471, 49.4665, and 49.67 of the Wisconsin Statutes. Federal statutes and regulation require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Department is proposing to modify the inpatient hospital pay-for-performance measures and associated payment rates for the current measurement cycle. The measurement cycle will be from May 15, 2013, through March 31, 2014.

At the conclusion of the proposed ten and a half month measurement cycle the Department will transition to an annual twelve month measurement cycle beginning April 1, 2014, and April 1 in subsequent years.

The Department is removing two measures from the Perinatal Reporting portion of the program. The two changes listed below will continue into future cycles:

1. Eliminating the C-Section with Labor reporting requirement
2. Eliminating the C-Section without Labor reporting requirement

The pay for performance measures are projected to distribute \$5,000,000 all funds in the upcoming measurement cycle, composed of \$1,978,000 general purpose revenue (GPR) and \$3,022,000 federal funds (FED).

The Department will make payments prior to December 31, 2014, and prior to December 31 in subsequent years to those hospitals that meet the performance requirements.

The effective date of the change will be May 15, 2013.

Copies of Proposed Change

A copy of the proposed change may be obtained free of charge at your local county agency or by calling or writing as follows:

Regular Mail

Division of Health Care Access and Accountability
P.O. Box 309
Madison, WI 537001-0309

State Contact

Sean Gartley
Bureau of Benefits Management
(608) 267-9313 (phone)
(608) 266-1096 (fax)
Sean.Gartley@wisconsin.gov

A copy of the proposed change is available for review at the main office of any county department of social services or human services. Department staff have notified the health directors of Native American tribes in Wisconsin of this proposal and will consult with them.

Written Comments

Written comments are welcome. Written comments on the proposed change may be sent by FAX, email, or regular mail to the Division of Health Care Access and Accountability. The FAX number is (608) 266-1096. The email address is Sean.Gartley@wisconsin.gov. Regular mail can be sent to the address above. All written comments will be reviewed and considered.

All written comments received will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed pay for performance measures based on comments received.

Department of Health Services

Medical Assistance Reimbursement to Hospitals Pay For Performance Hospital Withhold

The State of Wisconsin reimburses providers, including hospitals, for services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 44.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health Services (the Department), is called Medical Assistance (MA) or Medicaid. In addition, Wisconsin has expanded this program to create BadgerCare and BadgerCare Plus programs under the authority of Title XIX and Title XXI of the Social Security Act and ss. 49.471, 49.4665, and 49.67 of the Wisconsin Statutes. Federal statutes and regulation require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Department is modifying its withhold-based inpatient / outpatient hospital pay for performance program. Fee-for-service inpatient hospital claims with dates of discharge between May 15, 2013, and March 31, 2014, and fee-for-service outpatient hospital claims with dates of service between May 15, 2013, and March 31, 2014, will be subject to a 1.5% withholding on each payable inpatient and outpatient hospital claim amount. At the conclusion of the proposed ten and a half month measurement cycle, the Department will transition to an annual twelve month measurement cycle beginning April 1, 2014, and April 1 in subsequent years.

In addition to the change in duration of the measurement cycle, the Department will make the following two changes from the previous cycle's measures.

1. The Healthcare Personnel Influenza Vaccination Measure will be transitioned from pay for reporting (i.e., if a hospital reports data for the measure it is deemed in compliance) to pay for performance (i.e. hospital is evaluated on its performance as compared to its baseline and / or the national average).
2. The Department will add an Early Elective Induced Delivery measure as a pay for reporting measure (i.e., if a hospital reports data for the measure it is deemed in compliance).

The Department will make payments to hospitals prior to December 31, 2014, and prior to December 31 in subsequent years to those hospitals that meet the performance requirements.

The fiscal impact of this change is likely to be minimal. As in previous years, the total amount redistributed is funded through the 1.5 percent withheld from fee-for-service claims. Based on data from previous years, the Department anticipates total payments of approximately \$6 million all funds, composed of approximately \$3.6 million federal monies, or FED, and \$2.4 million general purpose revenues, or GPR. The amount of the actual payments will be determined by the accounting performed as to which hospitals met performance-based targets prior to December 31, 2013, and prior to December 31 of subsequent years.

The effective date of the change will be May 15, 2013.

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P.O. Box 309
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